

















very faithfully Yours

Charles Reed



# MEDICO-LEGAL STUDIES

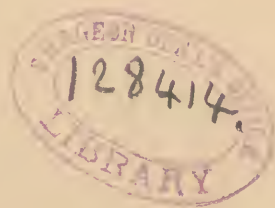
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BY CLARK BELL, ESQ.

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VOLUME I

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*This volume is one of an edition of one hundred of which*

*this is No.* 37

*To My Wife :*

*If I am entitled to any thanks or honors for my labors in connection with the science of Medical Jurisprudence, it has been largely due to the encouragement, help and sympathy of one of the most devoted, clear-headed, large-hearted women, given me early by kind Providence. I take profound pleasure in dedicating this first volume of Medico-Legal Studies to you.*

CLARK BELL.

*New York, April, 1889.*

*Presented to the Library of the  
Surgeon General at Washington  
Clark Bell  
Oct 1889.*



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## PREFACE.

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THE greatly increasing interest awakened in the public mind, regarding the science of medical jurisprudence as well as in the professions of law, medicine and chemistry, soon after the founding of the Medico-Legal Journal in June, 1883, has marked an era of what may justly be styled the *renaissance* of American interest in forensic medicine.

The steady, silent, wonderful growth of the Medico-Legal Society, has been a well marked indicator of this strong and powerful current, in the ocean of forensic medical thought in our country, which journals of the allied sciences, home and foreign felt, as well, as did the students of medical jurisprudence in the United States.

It occurred to me at the close of 1887, that the time had come to make the Medico-Legal Society the National exponent of this work, especially on this Continent, and this suggestion made in January, 1888, to that body in the President's address, was received with favor. The movement in the succeeding year was marvellously successful, and placed a favorable result beyond question. Much of my labor in the preceding years had been published only in pamphlets and detached fragments, and it seemed a duty to commence, at least, to group the later essays, and such as were to come after for preservation in volumes. This volume is the product of the studies of the years 1887 and 1888. The issue will be limited to one hundred copies, for personal friends

and for my family. I am conscious that I commence this publication in the middle of my labors, or rather nearer the end of them, omitting much of what has gone before, lost in the oblivion of sketches and essays that came out from time to time in pamphlets and unpublished writings. I may some day collect some of this earlier work in similar volumes. At all events I shall commence to preserve what shall come after this of later writings on medico-legal topics, which may possess an interest to the student of medical jurisprudence in the next century, and serve as a guide, to the proper study and appreciation of its progress, since I resumed the chair of the Medico-Legal Society, in 1887.

It should be borne in mind that I was first elected President of the Medico-Legal Society in November, 1872, nearly eleven years before the MEDICO-LEGAL JOURNAL was founded, and nearly seventeen years before this volume is published. Retiring at the close of 1875, after six years I was again re-elected and took the chair in 1882, serving three terms before my subsequent re-election and assumption of the duties, and these pages do not touch upon the labors of more than fifteen years prior to 1887, during which I gave much study to the science of Medical Jurisprudence. I have thought it might be of interest, in future, to give the list of officers and members of that society, and its constitution and By-Laws, as of March 1, 1889.

CLARK BELL.

NEW YORK, JUNE, 1889.



# Insanity and the Care of the Insane.

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By CLARK BELL, Esq.,

PRESIDENT OF THE MEDICO-LEGAL SOCIETY OF THE CITY OF  
NEW YORK.

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## I.

INSANITY has been styled, and perhaps justly, *the* disease of civilization.

The greatest peril incurred, in the higher cultivation of the human intellect, is the danger of its derangement.

Stimulation or pressure, upon the delicate organism of the brain, oftentimes puts it out of order and, like the intricate mechanism of the Geneva watch, one broken cog, or the presence and pressure of even a hair's weight, will derange its movement and impair its efficacy.

Man, in his original state, nearest to Nature, the savage, the uncivilized ; like the lower animals, knows little if anything of Insanity. We may, therefore, with entire truth, say of Insanity, that it is a fruit and product of what we call Civilization.

DR. HEBER NEWTON calls it the scourge of the educated, the refined, the successful, the religious, the very Nemesis of the Nervous System.

Historically considered, it is but recently, within the lives of men now living, that Insanity has been regarded, as it now seems to be generally recognized, as a state due to a diseased condition of the brain.

Science in this century has asserted, and substantially demonstrated, that the brain is the organ of what we call the mind, the seat and centre of thought, volition, will, and the intellectual faculties.

SHAKESPEARE says: "who shall minister to the mind diseased," but modern Science says, that it is not the mind which is diseased, but the diseased *brain*, which reflects its distemper, in the working and action, of the mind.

Whether we examine earlier histories, traditions, ancient writers, or even the sacred writings, the madman, from the remotest periods, in all ages, among all nations and peoples, has been regarded by the large majority of mankind prior to our century or era, as one afflicted of God, or possessed by an unclean spirit.

The new testament scriptures, seem to have warranted such a view, and the church since Christ, especially throughout its earlier history, has inclined to this belief.

The influence of the moon, among the ancients was so generally allied to madness, that it gave the almost universal name of *lunatic*, to the victim, and *lunacy*, to the state or condition into which, the foul fiend threw the sufferer.

The Insane thus became objects of aversion, suspicion and even abhorrence, to mankind, and there can be no doubt, that all other sources of human misery and suffer-

ing, are as a rush light to the sun, when compared to what has been borne, endured and suffered, by the wretched insane, throughout all the ages.

As science now regards Insanity, this is the darkest record in human history against mankind ; because, without excuse or palliation, it has shut out, from even its sympathy, these innocent victims of disease, has consigned them to living deaths, more terrible than anything written in the *Inferno* of Dante, and stricken out of these suffering lives, even the very word "*hope*."

England has had its traditions, its superstitions, its shrines, its healing waters, its marvellous cures.

SCOTLAND's healing wells are celebrated in verse.

SCOTT says, in *MARMION*—

" Then to St. Fillian's blessed well,  
Whose Spring can frenzied dreams dispel,  
And the crazed brain restore."

ST. RONANS' WELL was a place of great renown for the cure of lunatics, and our own poet, WHITTIER, has immortalized in verse, the well of St. MAREE, in ROSS-SHIRE, situated on a small island of Loch-Maree.

" And whoso bathes therein his brow  
With care or madness burning,  
Feels once again his healthful thought,  
And sense of peace returning.

" Oh ! restless heart and fevered brain—  
Unquiet and unstable,  
That holy well of Loch Maree  
Is more than idle fable."

The colony at Gheel, dating back more than 1,000 years, owes its existence, and I may say, its marvellous

success, to the universal belief in the efficacy, and curative powers of the shrine and church, which has been the MECCA, towards which, for so many centuries, faith has led the pilgrim, children of the Church, to seek its curative powers at the shrine of ST. DYMPHNA. The best authorities date the erection of this church in the 12th century, but it is beyond question that a chapel, on the site of this church, preceded its erection for more than one century at the least.

At the tomb of the Saint at GHEEL, it is idle to deny, marvellous cures were wrought, and, if as Dr. Hack Tuke, in speaking of it, says: "it was the representative of the Ecclesiastical treatment of mental diseases," it is well worthy the consideration of scientists and medical men to-day, to inquire and determine, how, and how far the psychical and psychometrical effect of well authenticated cases of marvellous cures, could beneficially affect the disordered minds of the 16th, 17th and 18th centuries, who came to this shrine to be healed.

Dr. Hack Tuke, in his remarkable work "History of the Insane in the British Islands," gives at length many accounts of the superstitions, and peculiar beliefs of the early Britons, concerning insanity in England and Scotland, which would well repay perusal, to those who desire to know the actual condition of the insane on those Islands, at the commencement of the present century; and the changes that have been wrought there in the condition, care and treatment of the insane.

In speaking of INSANITY, the first natural and pertinent inquiry is, what is INSANITY?

This is a question, that most of the abler writers and alienists, have attempted to answer.

I have for some years been a careful student on this subject, and have thought it would not be uninteresting, to collect the opinions of such of the earlier and modern writers, as have published their views and opinions, as well as of those who are regarded as authorities, in our own time, and who are most conversant with the subject.

At first blush it would not seem at all difficult, to define insanity, so that it would at once, not only be clearly recognizable, but susceptible of marked and well defined characteristics.

Bear with me, while I give you some of the many definitions I am collecting.

The fact, however, is, that very few, if any two, agree upon a definition, and it is safer to say that INSANITY can not be defined at all, by any definition acceptable alike to lawyers, judges and physicians.

The reason is, that among medical men, INSANITY is now regarded as a disease, a physical disorder, and the want of knowledge at the present moment among scientists, of the minute anatomy of the brain, as well as its physiology, and pathology, renders it exceedingly difficult for medical men themselves, to unite in a definition which can accurately define, and scientifically describe, that disease.

LEGALLY considered, INSANITY under the law, in so far as it relates to responsibility for conduct, for acts denominated as crimes, when committed by those not insane:

does not under the laws of English speaking countries, rest upon the question of whether the brain is diseased ; so much as it does upon how far the perpetrator, is able to control his action, upon his knowledge of, and capacity to distinguish or discriminate between right and wrong, in the commission of the act, and his knowledge and appreciation of its nature, consequences and punishment.

The medical man, of course, can only when sufficiently educated, speak of the disease as he finds it, and describe it, and its manifestations.

The legal mind can apply the principles of law to the given case, and in human history there seems as yet literally to be no real parallels among the insane. No two cases exactly alike, each case seems almost to be a law only unto itself.

Let us listen to a few definitions, from some of those whose opinions, all would unite in saying, ought to be entitled to weight upon such a question.

I will quote a few, from the older and the more modern authors, from the dead, as well as the living, students of insanity.

JUDGE BROCTON. 13th Century. "A madman is one who does not understand what he is doing, and wanting mind and reason, differs little from the brute."

DR. GEO. M. BEARD. "Insanity is a disease of the brain, in which mental co-ordination is seriously impaired."

DR. JOHN CONNOLLY. The celebrated man who was the PINEL of England, thus defines insanity:

"Insanity is the impairment of any one or more of the faculties of the mind, accompanied with or inducing a defect in the comparing faculty."

PROF. COMBE. "It is a prolonged departure, and without an adequate external cause, from the state of feeling, and modes of thinking, usual to the individual who is in health; that is, the true feature of disorder of the mind."



"A morbid action in one, in several, or in the whole of the cerebral organs; and, as its necessary consequence, functional derangement in one, in several or in the whole of the mental faculties, which these organs subserve."

DR CULLEN. 1. "Madness is an impairment of the judging faculties.

2. "A lesion of the intellectual faculties without pyrexia and without coma."

COPELAND. "Insanity is a deviation or perversion of the natural and healthy state of the mind, as manifested either by the moral emotions and conduct, or by a partial or general disorder of the intellectual powers and understanding."

LORD COKE. "A lunatic *lunaticus*, is one who has sometimes his understanding and sometimes not. *Qui gaudet lucidis intervallis*, and therefore he is called *non compos mentis*, so long as he has not understanding."

LORD CHIEF JUSTICE COCKBURN. (p. 361, Med.-Leg. Journal, Dec., 1884; Vol. 2, No. 3): "As the law, as expounded by the Judges in the House of Lords, now stands, it is only when mental disease produces incapacity to distinguish between right and wrong, that immunity from the penal consequences of crime is admitted. The present bill introduces a new element, the absence of the power of self-control.

"I concur most cordially in the proposed alteration of the law, having been always strongly of opinion that, as the pathology of insanity abundantly establishes, there are forms of mental disease in which, though the patient is quite aware he is about to do wrong, the will becomes overpowered by the force of irresistible impulse; the power of self-control when destroyed or suspended by mental disease becomes, I think, an essential element of responsibility.

"Sir James Stephen proposes that a jury should be allowed to return three verdicts—(1) Guilty; (2) Guilty, but the power of his self-control was diminished by insanity; (3) Not Guilty, on the ground of insanity."

MANUEL DE BIRAN "The insane cannot be classed among the moral or the intelligent; he has neither reason nor conscience, because he has not the power of will. He neither judges nor thinks; he is neither a man, nor an animal; he is simply a living machine, to whom we cannot attribute."

"Je ne suis plus nieme en droit,  
d'Attribuer une âme comme la mienne."

ESQUIROL. "La folie est une affection Cerebrale ordinairement chronique, sans fièvre, et caractérisée par des troubles de la sensibilité, de l'intelligence et de la volonté."

LORD ERSKINE. 1800, in Hadfield case. "Delusion, when there is no frenzy or raving madness, is the true character of such insanity as implies irresponsibility."

The great Belgian Alienist Guislan, to whom a statue is about to be erected by his admiring compatriots, says :

GUISLAN. "Insanity is a derangement of the mental faculties, morbid, apyrixial and ehronic, which deprives man of the power of thinking and acting freely as regards his happiness, preservation and responsibility."

DR. GUY. "Every person who is insane must be regarded as wholly irresponsible. The law of England should be assimilated to the law of France in the declaration : 'Il n'y a ni crime, ni délit lorsque le prévenu était en état de démence une temps de l'action.'"

LOCKE. "The madman is one who reasons correctly, from false premises."

Again—"Madmen do not appear to have lost the faculty of reasoning, but having joined together some ideas very strongly, they mistake them for truths, and err as men do who argue from wrong principles."

LELUT. "The insane person is one, who suffers from a disorder of the passions and will, of which he is unconscious, characterized by a lesion in the association of ideas."

MONRO, HENRY, M. D. "Insanity is simply a disease of the nervous instrument of the mind."—*Insanity, by Henry Monro, M. D. (Introductory Chap., p. 7).*

MANSFIELD, (Lord Chief Justice,) 1812. (Trial of Bellingham for shooting Percival.) "If a person laboring under mental derangement, were capable in other respects of distinguishing right from wrong, he could not be excused for any act of atrocity which he might commit." He held also, "that it must be proved beyond all doubt, that at the time he committed the atrocious act, he did not consider that murder was a crime against the laws of God and nature."

MOREL, Dr. "Insanity is a cerebral affection, idiopathic or sympathetic, destroying the individual's moral liberty, and constituting a derangement of his acts, tendencies and sentiments, as well as a general or partial disorder in his ideas."

MERLIN. "Le fou 'dit il' ills ne peuvent, remplir la distinction humaine."

PAGAN. "The loss of control over our actions, which insanity implies, is that which renders the acts which are committed during its continuance undeserving of punishment."

The name, perhaps, held in highest veneration among American Alienists of the recent past is ISAAC RAY, he says :

ISAAC RAY, M. D. "Liberty of will and action is absolutely essential



to criminal responsibility, unless the restraint upon either, is the natural and well known result of immoral or illegal conduct."

"Culpability supposes not only a clear perception of the consequences of criminal acts, but the liberty unembarrassed by disease of the active powers, which nature has given us, of preserving that course which is the result of the free choice of the intellectual faculties."

CHIEF JUSTICE TINDAL (1843). (McNaughton case for murder of Mr. Drummond.) The jury must consider whether "at the time the act was committed, the accused had that competent use of his understanding, as that he knew that he was doing by the very act itself, a wicked and wrong thing."

SPURZHEIM. "Insanity is a condition of disease of the brain, in which the patient is unconsciously of his disease, and lacks the capacity of distinguishing the diseased functions."

R. SWAYNE TAYLOR. "The terms: insanity, lunacy, unsoundness of mind, mental derangement, mental disorder, madness, and mental alienation or aberration, have been indifferently applied to those states of disordered mind, in which a person loses the power of regulating his action and conduct according to the ordinary rules of society."—*Taylor's Med. Juris.*, vol. ii., p. 476.

JUSTICE TRACY (1723). "An insane man is one who does not know what he is doing, no more than an infant, a brute or a wild beast."

Of living authorities, I will cite a few :

The celebrated John C. Bucknill, one of the most distinguished and honored of British Alienists.

DR. BUCKNILL. 1. "Insanity is incapacitating weakness or derangement of mind, caused by disease."

2. "Insanity is a condition of the mind in which a false action of conception or judgment, a defective power of the will or an uncontrollable violence of the emotions and instincts have separately or conjointly been produced by disease."

DR. HUGGARD. "Insanity is a mental disorder, which renders a person incapable of conforming to the exigencies of Society."

JAMIESON. "Had the lunatic, at the time of committing the deed, a knowledge that it was criminal, and such a control over his actions as ought if it existed, to have hindered him from committing it?"

MAUDSLEY. "The determination of responsibility, in cases where lunacy is alleged, depends on whether a connection can or cannot be traced between existing disease and the act"

JUDGE CALVIN E. PRATT. "Insanity exists where a diseased brain manifests itself in abnormal action of the mind."

PROF. JOHN, J. REESE. "It is the want of the control of the WILL,

and not the want of ability to discriminate between right and wrong, which must be regarded as the true test of mental unsoundness."

SIR JAMES FITZ, JAMES STEPHEN. "Sanity exists when the brain and nervous system, are in such a condition that the mental functions of feeling, and emotion and willing, can be performed in their regular and usual manner. Insanity means a state in which one or more of the above-named mental functions is performed in an abnormal manner, or not performed at all by reason of some disease of the brain or nervous system."

"A man, who by reason of mental disease, is prevented from controlling his own conduct, is not responsible for what he does."

"If it is not, it ought to be the law of England, that no act is a crime, if the person who does it, at the time when it is done, prevented either by defective mental power, or by any disease affecting his mind from controlling his own conduct, unless the absence of the power to control has been produced by his own default."

Dr. Andrew H. Smith, one of the Vice-Presidents of the Medico Legal Society, says in reply to my inquiry:

SMITH, ANDREW H., M. D. "Insanity is that condition in which the functions of the brain, as the organ of the intellect are unnaturally performed. This definition includes delirium, and the various forms of intoxication, these being merely temporary forms of insanity."

"With the legal consequences of regarding intoxication as a form of insanity, science has nothing to do. The safety of Society may require that certain insane persons shall be put to death; but they are none the less insane."

"A man is to be held responsible for an act, if he is so far conscious of its nature, as to endeavor to escape its consequences. When a delusion is shown to have been present, if the matter of belief if true, would not have justified the act, the responsibility remains. If, for example, a man kills another under the delusion that his own life is threatened, he is not responsible; but if he kills him because he fancies he has received an injury from him, he is responsible. There can be no rule of universal application; each case must be adjudged for itself, subject to the above general principles. Perhaps exception might be taken to the word *unnaturally* in the above definition. An act would be natural to a person born with an imperfect mental organization, which would be natural to persons in general. It is by comparison with this general standard that each case must be judged. The practical difficulty would occur in cases on the border; but that is a difficulty inherent in the nature of the case, and which a definition could not remove."

Dr. Henry P. Stearns, of Hartford, an Alienist of distinction, replies to my inquiry :

STEARNS, HENRY P., M. D. "Insanity for Medico Legal purposes, is an incapacitating derangement of the mind caused by disease."

"I am not acquainted with a short, and also perfectly satisfactory medical definition of Insanity. The test of criminal responsibility would be, where the parties suffered, from an incapacitating derangement of the mind caused by disease."

That careful student and good lawyer *Mr. Austin Abbott* says, in reply :

AUSTIN ABBOTT. "I do not think we have attained a knowledge of the subject of mental derangement, adequate to enable us to form a single definition, that will be a satisfactory guide in the application of the law. The definitions which abound in the books appear to me, to be useful and indispensable instruments, of analysis and discussion; but the difficulty of framing one which shall be generally applicable in law is this: in the medical sense, the term means such organic or functional derangement of the brain, or affecting the brain, as to require medical treatment, or regimen for the benefit of the subject, or segregation for the safety of others or both."

"In legal usage, the term means, when used in reference to civil rights and liabilities, such derangement as incapacitates the subject from free and intelligent volition or consent, where freedom and intelligence are considered with reference to the nature of the act, for the performance of which the law requires them, and as the degree or character of freedom and intelligence varies with the class of acts in question, the test of legal capacity varies."

"In respect to criminal responsibility, the test now applied under the decisions of the Court of Appeals in this State is, in my judgment, the correct one, for reasons which I indicated in a discussion in the Medico-Legal Society, which I believe is reported in the Medico-Legal Journal."

That test is : the capacity to distinguish between right and wrong at the time of, and with respect to the act in question.

The reasons for excluding the proposal to inquire for the power of choice, are briefly these : that there are as yet no means of ascertaining the non-existence of the power of choice, except through the declaration of the accused ; and that declaration could be truly made in the common case of excessive passion, or other inordinate desires ; and that it is the just function of the criminal law to develop the power of selfrestraint, where it would otherwise not exist, by inflicting punishment for not exercising it. In other words, it appears to be true in a large class of cases

at the present day, as doubtless it is historically, and in the training of animals, as well as of human beings, that just punishment for doing acts known to be forbidden, is a means of creating and developing the power to resist impulses to do them, which otherwise would be irresistible.

CHARLES P. DALY, CHIEF JUSTICE. (Common Pleas, 1873. Trial of Geo. Francis Train.) "Defendant's Counsel, Mr. Bell, correctly states the law in this State, as laid down in *People vs. Freeman*, 4 Denio, p. 9. 'That one capable of rightly comprehending his own condition in reference to the proceeding against him, and of conducting his defense in a rational manner is not insane within the meaning of the rule, though on some other subjects his mind may be deranged.'"

BREWSTER, (Judge). *Commonwealth vs. Haskell*, (2 Brewster, 401). "The true test in all cases lies in the word 'power.' Has the defendant in a criminal case the power to distinguish right from wrong, and the power to adhere to the right and avoid the wrong?"

T. R. BUCKHAM, M.D. "Insanity is a diseased or disordered condition or malformation of the physical organs, through which the mind receives impressions or manifests its operations, by which the will and judgment are impaired, and the conduct rendered irrational."

"Insanity being the result of physical disease, *it is a matter of fact* to be determined by medical experts, not a *matter of law* to be determined by legal tests and measures." (*Buckham on Insanity*, p. 72.)

EX SURROGATE D. C. CALVIN. "Whenever any function of the mind is so far diseased as to dominate the will, in the commission of the particular act, there is no criminality."

DR. FERRIER. That the brain is the organ of the mind no one doubts, and that when mental aberrations of whatever nature are manifested, the brain is diseased, we take as an axiom — *Mind and Brain*, (Lond.) 1879, p. 364.

GERMAN CODE. "An act is not punishable when the person at the time of doing it was in a state of unconsciousness, or of disease of the mind, whereby free volition was prevented."

BRITISH ALIENISTS. At the annual meeting of the British Association of Medical Officers of Asylums and Hospitals for the Insane, held in London, July 14, 1864, present fifty-four medical officers, it was unanimously

*Resolved*.—"That so much of the legal test of the mental condition of an alleged criminal lunatic as renders him a responsible agent, because he knows the difference between right and wrong, is inconsistent with the fact well known to every member of this meeting; that the power of distinguishing between right and wrong exists very frequently among those who are undoubtedly insane, it is often associated with dangerous and uncontrollable delusions."

PLINY EARLE. "You ask me for my 'idea of the best definition of insanity.' After studying the subject for years, I at length became convinced that, with our present knowledge, the disease, or *disorder*, is insusceptible of definition, and hitherto I have had no reason to doubt the accuracy of that conclusion, as every attempted definition is a failure. I discard them all; and, in my opinion, there is no one of them sufficiently good to be adopted for use, either by the medical profession or by the Courts of Judicature. Any one of them would embarrass rather than facilitate the action of the legal tribunals. Insanity may be *described*, but not *defined*; and it appears to me that, for the easiest attainment of the ends of truth and justice, it is by far the better way for both lawyers and physicians to avoid all attempts at definition. As another evidence of your skill in propounding conundrums, you ask what, in my judgment, 'should be the legal test of criminal responsibility for acts committed by persons suffering from any form of mental disease.' As there is no perfect definition of insanity, so there is no test, no *experimentum crucis* for it. The most obvious *reason for exculpation* differs widely in different cases. The congenital idiot, or the man in the very lowest form of acquired dementia, commits homicide in a fit of anger. Here, ignorance of all human law, with incompetence to acquire a knowledge of it, is the sufficient excuse. An epileptic, in a violent maniacal paroxysm, kills a man. In this case there is *entire unconsciousness* of the act, and this is the patent reason for his exemption from responsibility. But a majority of the insane retain, to a greater or less extent, their knowledge of human laws, and they do not, when awake, lose their consciousness. They even 'know right from wrong' in the abstract; or, as a rule of general application. But a person in this condition falsely imagines that another person is doing him injury, perhaps seeking his life. Under this belief he takes the life of that other person. Here the only possible ground for release from criminal responsibility appears to be this—that although the homicide 'knew right from wrong' as a general principle, he could not perceive it as applied to his own case. This delusion destroyed his moral perception. And here, as it appears to me, we have arrived at what comes the nearest of anything to what you seek. It is, at any rate, a test of wide, if not of universal, application."

ELLIOTT F. SHEPARD. "The strict Latin definition of insanity affords the best explanation of the meaning of the word and idea, and that is 'unsoundness.' Any disease of the body is reported to, and has an effect upon the brain. When the brain thus becomes so disturbed, or weakened, or diseased, as to cease to afford a proper support to the soul or spirit in its control of the will, this unsoundness is manifested more or less in the words or actions of the individual. The vigor of the brain, like that of the rest of the body, may be affected without being destroyed, and so



may the vigor and control of the spirit over the will; and the accountability of the individual before a human tribunal for his words and actions ought not to be denied or excused for anything less than a substantially entire suspension of the will power. It would be as reasonable to excuse a man from the payment of his promissory note because he had the toothache, or from performing any contract because he was sick, as to excuse him for inflicting injury or violence upon the persons of others, because his mind was partially weakened. Undoubtedly, the criminal lawyers have carried the defence of insanity to an unreasonable point in behalf of their clients; and undoubtedly, the security of society at large demands, that absolute security should be afforded to every individual in the peaceable possession of his person. Those who carry themselves back to the condition of savage life, by attacking others from motives of revenge, jealousy, cupidity, antipathy, or any other reason, would meet only with even-handed justice, if they were to meet with that other condition of savage life—swift retribution in kind. As in Christian communities, mercy has tempered this theory of equal-handed justice, the retribution is to be visited only after a due adjudication; but no exculpations should be allowed to prevail in civilized society that ought not also to prevail in the savage state. The moral color line, which is so much dwelt upon in judicial decisions, upon defences of insanity, is a very flexible one, and dangerous to the public in proportion to its flexibility. Substantially, that line is as follows: If the man has understanding enough to know that a certain act is wrong, and then does it, he is to be punished. If not, not. And as the understanding is very easily muddled, this rule has doubtless often cleared the guilty. If a horse should kill a man, that horse ought to be slain. And it has been asked, If a man is reduced to the condition of a brute, and kills a man, should not also the slayer be slain? And, under such circumstances, would the hanging of a man produce any greater injury than the killing of a horse? Well, those are questions to which our knowledge of the spirit and of eternity is too deficient to enable us to make a satisfactory answer. The sentiment in America and England seems to be, that the wisest plan, instead of adopting any cast iron rule, is to leave the decision in each case to the judgment of twelve good men of the country, and I do not know that any better plan will ever be found under human government."

One should be admonished of the unwisdom of attempting definitions. I will give what I should answer, if called upon as a witness, to give my own opinion, as to insanity, and responsibility, as follows:

CLARK BELL. "Insanity cannot be exactly defined medically, from lack of present knowledge of its pathology. Legally considered, it may be

regarded as a disease of the brain or nervous system, which prevents the free exercise of volition."

"The test of responsibility under the law for a criminal act, when the defense of insanity is interposed, should be, clear knowledge of its nature, consequences and penalty, with volition unimpaired by disease of the brain or nervous system."

"If a man commits a crime, understanding its nature and penalty, under the law he is responsible, unless suffering from a disease of the brain or nervous system, which prevents the free exercise of his will power. If acting under a delusion which dominates his volition, he is not responsible for his act. He is the victim of his disease."

Vid. also p. 413, Dec. No. M. L. Journal, 1884. Vol. 2, No. 3.

## II.

### THE CARE OF THE INSANE.

1. *Should they be confined in hospitals?*
2. *Mechanical restraints.*
3. *The best methods of care, both as to incurables, and acute or doubtful cases.*

#### SHOULD THEY BE CONFINED IN HOSPITALS?

Civilization decided this question in the affirmative *ex parte* long ago. Debate has been closed upon it, for over a century.

The alleged reasons were twofold :

- a. That society was bound in self-defense to incarcerate and restrain the insane, to prevent the commission of offenses or crimes, by the insane, who are beyond the restraining influence of human punishments.

- b. That the insane themselves had a moral, if not legal, claim on society, to provide and care for them in their affliction, to the best of its ability.

The present century has witnessed the most wonderful changes, in the actual condition of the inmates of Asylums for the Insane, I may safely say, in all countries. It would be imposible for me to adequately describe to you, the frightful, horrible wrongs, inflicted upon the insane, almost everywhere, not only in English Asylums, but in French, and almost all European and American Institutions, particularly almshouses, at the beginning of our century.

In my own time, I have seen, in this State, in a county almshouse, a woman confined in a dark cell, naked, without one shred of clothing, without any bed, but straw to lie upon, no covering, and smeared with her ordure. So kept, because her keepers believed that she could not be clothed, as she would, as they thought, destroy all clothing and covering, and she was so confined because she was regarded as dangerous to approach. Her food was passed into her, as to an animal, and her actual state and condition, was worse than swine kept by the ordinary, and not the humane and careful farmer, and this was not thirty years ago.

Read the testimony of that English nobleman, who was for more than thirty years Chairman of the Lunacy Commission of England, in the evidence he gave before the Select Committee of the British Parliament as late as March 14th, 1859 (pp. 64 and



65, Minutes of Evidence, § 569 ; and p. 35, same Minutes, §§ 304, 306, 307).

This was the evidence of that grand English character, the Earl of Shaftesbury, of whom Mr. Sheil said, in the British Commons: "That this noble lord had added nobility even to the name of ASHLEY, and that he had made humanity one of 'SHAFTESBURY'S' characteristics."

A few years ago, Dr. Alice Bennett, the gifted Superintendent in charge of the Female Department of the State Hospital for the Insane at Norristown, Pa., states that :

"When eighteen woman were sent to her Institution from one of the almshouses in Philadelphia, that had been burned, ten of these women came to her in camisoles, and one had chains upon her feet, all of which she at once removed" (Medico-Legal Journal, Vol. I., p. 293).

In many of the English Almshouses and Asylums, chains and rings were on every bed-post and at every table, in the early part of the present century.

We may say in America that the misery of the English Almshouse, was our inheritance from the mother country. Asylums for the Insane did not exist in the American States, until a quite recent period, with the single exception of that at Williamsburgh, Va., founded in 1773.

The Friends' Asylum was established in Philadelphia in 1817, forty-two years later, which was succeeded

later by those at Somerville, Mass. ; Bloomingdale, N. Y., and Hartford, Conn.

There could have been scarcely one single ray of light, upon the condition of the insane in this country, until near the close, of the first quarter, of the present century.

In the exposition made by the celebrated D. HACK TUKE, in his recent work, "The Insane in the United States and Canada," (H. K. Lewis, London,) 1885, of his visitation made as late as August, 1884, to Longue Pointe Asylum, Quebec (pp. 193, 194, 195, 196), he speaks of incredible abuses borne there by the insane patients.

It was just before and at the beginning of the present century, that PINEL began his great work at the BICETRE at PARIS. At the same time, or shortly before, the elder Tuke was laying the foundations at YORK RETREAT in England for a government of kindness and love rather than of fear and force. These two were working unknown to each other. Then came the era of the magnificent work of DR. JOHN CONNOLLY in England, and later, of JOSEPH GUISLAN in Belgium, that led up through a series of struggles which culminated in ENGLAND, in the Bills of 4th and 8th August, 1845, under the splendid leadership of the EARL OF SHAFTESBURY, which have been aptly styled, "The Magna Charta of the Liberties of the Insane." I mean the Acts of 1845, as amended later in 1853.

Here was laid upon solid and secure foundations, the complete system, of a permanent and able Lunacy Com-

mission, with powers of visitation and supervision over asylum management, Superintendents, and officers, Statutory enactments, that have been far in advance of our American legislation, upon these subjects in any of the American States.

With this grand forward and upward march, came in France, Great Britain, Belgium and the German speaking countries, the abolition of chains, mechanical restraints, and the new doctrine of love, tenderness, care and humanity, in the treatment of the insane in the great institutions of Continental Europe, and Great Britain.

Not so in America. We did not keep step to the march or music, of that grand advance.

True, we had our great names who deserved to stand in the same glorious galaxy, with as shining lustre, Isaac Ray, Pliny Earl, Luther V. Bell, and their confreres of to-day, Dr. J. C. Shaw, of Flatbush Asylum ; Dr. W. W. Godding, of Washington ; Dr. Alice Bennett, of Pennsylvania ; Dr. P. M. Wise, of Willard ; Dr. J. B. Andrews, of Buffalo ; Dr. A. E. Macdonald, Superintendent Institution for Insane of New York City ; Dr. W. B. Fletcher, of Indiana Asylum ; Dr. Bryce, of Alabama ; Stearns, of Connecticut ; Carlos MacDonald, of Auburn ; Buckmaster, of Wisconsin ; McClellan, of Illinois ; Dr. Trautman, of Ward's Island, New York City, and others too numerous to name here.

That every insane person, should not be confined in a hospital, must now be conceded by all.

If a lunatic is harmless, whether curable or incurable,

an asylum is probably not, the best place for that person. In many respects, the best asylum, would be almost the worst place, for the patient, in such a case.

If the restraints, and the feeling of imprisonment, and of force, which pervade and are a concomitant of asylum life, and proper discipline (because asylums cannot be successfully maintained without discipline, and good discipline too), are not an aid to recovery; and if recovery is what is regarded as most desirable, a hospitable or asylum, is not the safest or best means to obtain the desired result, in a large proportion of cases.

The law of commitments in this State, does not discriminate between the harmless and violent, or between homicidal or suicidal cases.

If the State Commissioner in lunacy, would exercise the powers conferred upon him by our law, and reconstruct the form of the affidavit of physicians, more like the English plan—if it required that the examinations by the physicians, should be made separately and not together—if the physician should be compelled to discriminate in his affidavit between what he observed himself, and what he was told by others, if he was obliged to give the sources of information derived from others, state in detail, the nature, character and manifestations of insanity, their duration, whether first, second or third attacks, and so describe them as to indicate, whether confinement in an asylum or hospital, was not only necessary, but offered the best chance of their recovery, we could, under our present statute, make a great advance from our present state.

The glaring defect in our system, is : That we have no Board or officer, with authority or power, over Superintendents, or officials, as the English Commissioners have.

Our Lunacy Commissioner in New York is powerless to dismiss, and as for visitation, after English ideas, he could not personally visit each insane person confined in this State once in four years, when, as under the English System, each insane person should be personally seen, conversed with, and inspected by some one member of the Board, three or four times in each year.

As all our Communities and States stand committed, to Hospitals for the Insane in this Country, we have, in all the American States, or nearly all, gone headlong, and at almost a gallop, into the most lavish, profuse, and prodigal expenditure of money in the construction of Hospitals for the Insane. The outlay has in many instances, been simply prodigious, and some of our great Institutions are of the most expensive and pretentious character, very impressive, and even splendid in their architecture and surroundings. This has not been an unmixed evil. It has resulted in good in many ways. We care for those things which cost us much, and most for those which cost us most. The equipment of a first-class and expensive palace, must needs be on a scale commensurate with its mission and purpose. Superintendents of Asylums under our System have not been the leaders in, or causes of, the lavish expenditures, in building these structures.

They have asked for increased and better facilities,



for a larger medical force, for increased and better paid, and more competent attendants, and in ratio to their success, in obtaining these demands, has been the standard of the morale of the inmates, within their institutions.

This brings us face to face with the second question.

### III.

#### MECHANICAL RESTRAINTS.

The position of the Alienists of Great Britain and Continental Europe, standing practically as a united phalanx, in favor of, and practising the abolition of mechanical restraints, for now more than a quarter of a century, is in strange, not to say remarkable, contrast with the divided ideas of the American Alienists, and asylum superintendents, upon this question in the quite recent past.

Dr. HENRY MAUDSLEY told me on the occasion of his last visit to this country, that he never used a camisole in his life, and that no such implement was ever in use, in any asylum with which he was connected.

I doubt if such a thing as a crib could be found in any public institution in GREAT BRITAIN, FRANCE, GERMANY OR BELGIUM.

Permit me to give extracts from the evidence of certain asylum superintendents and alienists before a Legislative Committee in this State, May 6, 1879, regarding Mechanical Restraints not ten years ago.

Dr. Nichols, Superintendent of Bloomingdale Asylum :

“ I do not use the crib at Bloomingdale. I do not consider it a barbarous method of restraint. It was in use at Utica when I was an assistant

there; and, therefore, I have had some personal knowledge of it. I think there are some patients who can be restrained in a horizontal position, and their rest and sleep obtained better by its instrumentality than by any other means.

"Dr. Ordonaux—I would like to ask Dr. Nichols a question. Here is an extract from a paper\* giving an interview with Dr. Hammond, which

\* Cincinnati Daily Inquirer, November 18th, 1878.

contains the following :

"Reporter—Can you give me an example of the confinement of a patient in a crib having ended fatally?

"Dr. Hammond—A very recent one. A patient was sent to the Bloomingdale Asylum by a very distinguished physician of this city. Do not mention his name; but in case this statement is called in question, he is ready to come forward and support it publicly. The patient was put into a crib the same night that he entered the asylum, and the same night he died—died in the crib.

"Reporter—What was the predisposing cause of his death?

"Dr. Hammond—Congestion of the brain; you know very well, or you did know when you were a boy, that if you stoop down with your head between your legs your head feels dull. How much greater must be the compression if a man's head is already congested, and he is compelled to remain in a recumbent position? It is simply a question of mechanics."

"Dr. Nichols, have you known of the case here described?

"Dr. Nichols—No such case has occurred since the institution has been under my charge."

### Dr. Chapin, then Superintendent of Willard Asylum

"We have not introduced the crib into the asylum; I do not consider it a barbarous means of restraint; we have as substitute what is known as the Wyman bed-strap; I do not think there is much objection to the crib for patients who are much debilitated; it is mostly used in acute cases in my experience; the average death rate in the asylum is six per cent.; restraint has always been more necessary for men than women; the record of restraint upon the day of my leaving home was for the previous twenty-four hours, five woman among 754; the number of men restrained was twenty-seven among 655; the amount of restraint, I think, has been very much reduced by having a daily report made of it, by inquiring of attendants, and noticing the daily report; the restraint used in our asylum is the nuff and the camisole; the camisole is a jacket made of endless sleeves; the nuff is a leather instrument with two bands, encircling the wrist, from which the patient is unable to withdraw his hands."

Dr. S. H. Talcott, Superintendent, Middletown Asylum :

"Restraint has never been used except at the instance of myself or one of the assistant physicians; we have 171 patients; we have the restraint or crib bed; we have, at the present time, a patient who sleeps in one of these beds; I do not consider it as barbarous or inhuman; I consider it as an exceedingly proper thing to use in some cases where patients would be likely to destroy themselves."

Dr. J. M. Cleveland Superintendent, Poughkeepsie Asylum :

"We have not used the crib within a year; we dispensed with it, owing to the prejudice which seemed to be increasing in the community against its use; I think it is a form of restraint which should be used at times, but I think it should be used very cautiously; I think some patients would be seriously injured by its use; I think it is the most humane form of restraint possible for patients who are constantly out of bed, who would not sleep, and who would exhaust themselves."

Dr. Gray, Superintendent, Utica Asylum :

"Restraint is only applied by order of the physicians; the restraints we use are the camisole, restraint belt; and occasionally the muff; these have all been described in the annual reports of the asylum made to the Legislature, and their uses fully explained; in regard to the crib, I found it in use when I went to Utica, having been introduced by Dr. Brigham in 1846, who was then superintendent; it was not at that time as comfortable as now; the only thing I did was to make it more comfortable and easy for sick patients, and I always believed it to be a very humane method of treatment for certain cases who are feeble and anæmic, in securing a horizontal position, and for feeble persons who would get up at night and stand till exhausted, or put their heads out of the windows and expose themselves; it is a long time since we have used what Dr. Chapin has described as the bed-straps; it was a question with me whether to use the bed-strap or the crib; in my judgment, from the use of both, I incline to the use of the crib; this should always be prescribed by a medical officer, and it is—just as the medicines are."

Dr. Wm. A. Hammond :

"Q. Look, doctor, at the eleventh paragraph, which reads: 'Is the superintendent consulted whenever forcible restraint is required,



and is the duration, manner, and result of this mechanical restraint duly recorded in a book kept for the inspection of the Commissioner in Lunacy and of the courts?" Do you know of any asylums in which the superintendent is not consulted?

"A. I know he is not at Bloomingdale; I know it is not so at Ward's Island; nowhere else of my own knowledge.

"Q. The thirteenth paragraph reads: 'Did you ever employ the barbarous and injurious means of restraint known as a crib?' What do you know of that matter?

"A. I know the crib is employed in a number of institutions.

"Q. Do you consider it a 'barbarous and inhuman means of restraint'?

"A. I most certainly do.

"Q. Is it considered, by the medical profession, to be a barbarous and inhuman means of restraint?

"A. Yes, sir.

"Q. By the medical profession as a whole?

"A. I think so, sir.

"Q. Do you know, as a matter of fact, that there is not an asylum superintendent in this State who considers it as 'barbarous and inhuman'?

"A. I think they consider it quite the contrary, and there is where they are wrong; I think the medical profession generally is opposed to them on this subject.

"Q. Is it your opinion that the majority of medical experts in this country consider the use of the crib bed as 'barbarous and inhuman'?

"A. Most decidedly; of course, you know, it is quite impossible to obtain the number of medical men who are, or who are not, in favor of it; you might, perhaps, get a hundred to say that it was not cruel, and I could get a hundred on the other side.

"Q. You seem to use this expression: 'Do you ever employ the barbarous and inhuman method of restraint known as a crib,' as if the medical profession and the public so generally regarded it?

"A. I never mentioned the subject of the use of this restraint to a physician, outside of a lunatic asylum, who did not disapprove of it; not only is this true, but it has been condemned by some of the most eminent alienists of the world; I do not believe the superintendents use it from any purpose to be inhuman.

"A. Do you think you could obtain, from any conscientious superintendents using the crib, an affirmative answer to the question: 'Is the crib barbarous and inhuman?'

"A. I think, if I employed it, I would hardly say it was barbarous or inhuman; I think myself that that paragraph is too strongly worded; so far as the idea is concerned, I fully indorse it; I do not mean

to say that these gentlemen use it from any idea of being barbarous or inhuman.

"Q. Would you not consider it a fair conclusion by a layman, in reading this paragraph, that the use of the crib was barbarous and inhuman?"

"A. I could not say about that.

"Q. Did you ever see a patient restrained by a crib?"

"A. Yes, sir.

"Q. How many times?"

"A. Two or three times.

"Q. Did you know anything about the condition of the patients who were restrained?"

"A. No; but I know pretty positively, as well as I know anything else, that a patient died in a crib, in an asylum not far from New York City.

"Q. Did you know anything of the antecedents of the case?"

"A. No, sir; but I know, from my knowledge of humanity, that the crib is a barbarous and inhuman mode of treatment; have you ever seen the crib?"

Senator Goodwin—I have.

Dr. Hammond—Then you have seen its dimensions; it is not as big as a wild-cat's cage; perhaps as wide as this table, about two feet six inches high, and shut in at the top with iron bars, with a spring lock attached; in this the patient is put upon his back; he cannot rise to a sitting posture; I know that nothing can be more injurious than that for an acute case; this is exactly what allows congestion of the brain to take place with the utmost facility; it is like a child's crib, except that the patient is locked up in it.

"Q. Is there any great difference between the use of the bed-strap and the use of the crib? Can a person rise who is confined to bed with straps?"

"A. Probably not; no, sir; I think that is just as bad, or almost as bad, as the crib; there is this difference: you may strap a man in bed in a sitting posture; in the crib, no matter how much blood there is in the patient's head, he is obliged to lie down.

"Q. You say that the crib is 'barbarous and inhuman.' Is that not simply a difference of opinion? Do you take the fact of its being used as an evidence of mismanagement in an asylum?"

"A. I should not like to say that it was; it is evidence of a bad practice and bad management, but not mismanagement.

"Q. Any system, then, that is practiced in an asylum, which does not coincide with your views on the management of insane, you regard as a bad practice?"

"A. I do.

"Q. Would you consider the fact of a difference of opinion existing in regard to the use of restraint to be a subject-matter for a memorial to the Legislature ?

"A. Decidedly so ; the practice should be restrained by law.

"Q. Do you think that a legislative committee composed of laymen would be a proper body to determine the question as to whether a certain system should or should not be adopted in asylums ?

"A. No, sir ; they would not be a competent body to say whether or not the crib should be used ; the Legislature should appoint a committee to investigate the management of the asylums of the State of New York ; if they find, after receiving the evidence of medical men, it is not a good thing, let them do away with it ; I do not think that any of these gentlemen would be competent to advise the Legislature in this matter ; if this committee had the power to act upon the matter, I should know better what opinions to express ; if this committee was the one which was charged with the duty of investigating asylums.

Dr. W. J. Morton :

"I think restraint is applied without the consultation of the Superintendent at Ward's Island ; nowhere else, to my knowledge ; I also think the use of the crib is barbarous and inhuman.

"Q. Doctor, if it was sworn to by every one of the superintendents of insane asylums in this State, whose experience ranged from twenty-five years to five, that, in their judgment, the use of the crib was not barbarous or inhuman, would it have any effect upon your mind ?

"A. Not the slightest.

"Q. Suppose these physicians were to tell you that this crib was the best mode of bringing about a certain desirable condition of mind and body in the patients, and that this was their experience after a study of some twenty-five years, would that make any impression upon your mind ?

"A. I should prefer to take my own judgment.

"Q. Where there is a difference of opinion in the profession, upon a point like this, would you consider it as a matter of legislative inquiry ?

"A. I think this is more than a difference of opinion ; I think that the majority of physicians are opposed to this violent means of restraint.

"Q. Have you ever talked with any physician connected with a lunatic asylum of the State upon the use of the crib ?

"A. It has been spoken of between Dr. Macdonald and myself while in the wards ; with no one else ; I never have spoken to a physician out of the State.

“Q. Your opinion, then, is formed upon your own idea?

“A. From what I have seen; one case is as good as a dozen.”

Now, as a piece of not quite cotemporaneous literature, let me quote from the report of the English Lunacy Commissioners, to the Lord High Chancellor, made to the English Parliament in 1844, and printed before the passage of the Memorable Bills, but one of the ablest State papers, ever yet presented in any country, in the movement for Lunacy Reform. See what this celebrated Commission with Lord Ashley, chairman, recommended, and after specifying every asylum in Great Britain thereupon the subject closes with the following :

“Whatever may be the means or forms of control exercised over the persons of patients, or whatever the degrees in which the application of this control may be varied in different Asylums, we have the gratification of reporting to your Lordship that in every public and private Asylum in the kingdom, which is well managed, bodily restraint is not permitted, except in extreme cases, and under the express sanction of a competent superintendent. The unanimous opinion of the medical officers and superintendent of these public and private Asylums is, that the diminution of restraint in the treatment of lunatics has not only lessened the sufferings, but has improved the general health and condition, as well as promoted the comfort of the insane. We entirely concur in this opinion. \* \* \* \* \* again :—

“The Medical Officers and Superintendents who adhere to the system of absolute non-coercion, never using mechanical restraint, even in cases of extreme violence argue :

“1st. That their practice is the most humane, and most beneficial to the patient; soothing instead of coercing him during irritation; and encouraging him when tranquil, to exert his faculties, in order to acquire complete self-control.

“2. That a recovery thus obtained, is likely to be more permanent than if obtained by other means; and that in case of a tendency to relapse, the patient will, of his own accord, be more likely to endeavor to resist any return of his malady.

“3. That mechanical restraint has a bad moral effect; that it degrades the patient in his own opinion; that it prevents any exertion on his part; and thus impedes his recovery.

"4. That experience has demonstrated the advantage of entirely abolishing restraint, inasmuch as the condition of some Asylums, where it had been previously practised in a moderate and very restricted degree, has been greatly improved, with respect to the tranquility and the appearance of cheerfulness among the patients in general, after all mechanical coercion has been discontinued.

"5. That mechanical restraint, if used at all, is liable to great abuse from keepers and nurses, who will often resort to it for the sake of avoiding trouble to themselves; and who, even when well disposed towards the patient, are not competent to judge of the extent to which it ought to be applied.

"6. That the patient may be controlled as effectually without mechanical restraint, as with it; and that the only requisites for enabling the Superintendents of Asylums to dispense with the use of mechanical restraint, are a greater number of attendants, and a better system of classification amongst the patients; and that the additional expense thereby incurred ought not to form a consideration where the comfort of the patients is concerned."

Is it not a marvel that the English Asylums and Lunacy Commissioners, as early as 1844, before the passage of their grand law, were nearly half a century in advance of some of our Asylum superintendents in America, in 1879?

The UTICA influence, however, was felt, and as it seems to me, put back the shadow upon the dial, of the progress of Lunacy Reform in America for almost a decade.

But truth advances with stately steps. Her march, although in time triumphal, is sometimes painfully slow. Asylum superintendents, one after another, year after year, are leaving off the use of Mechanical Restraints. I clip from the UTICA OBSERVER, of January 21st, 1887, the following statements made by Dr. Blumer, the recently appointed Superintendent of the State Asylum at UTICA, to that journal, which, I think, looks, like the beginning of the end of Mechanical



Restraint, in State Institutions, in New York, and, indeed, in American Institutions everywhere.

DR. BLUMER is reported to have said :

The introduction of non-restraint, in the treatment of the insane, has long been, one of my most cherished schemes. There is, in my mind, not the slightest question, as to the superiority of this new system. Now, did I say ? Let me read to you what Dr. Conolly, the father of non-restraint, said over forty-seven years ago :

"I was physician to the Hanwell Asylum about fourteen years. The number of patients was generally 900. After the 21st of September, 1839, no form of mechanical restraint, was employed with my knowledge, or my sanction, by night or by day, until my resignation in 1862, except in a few surgical cases, for the temporary security of the patient. Recollecting the state of some private asylums, which I visited officially thirty years ago, I feel perfectly assured, that the amended treatment practiced since that period, and especially the disuse of mechanical restraint of all kinds, has been productive, of an incalculable amount of advantage to the insane. The general tranquility, comfort and satisfaction visible, in all well conducted asylums, public and private, attest this in the strongest manner. Fewer accidents occur ; revenge is seldom excited in the minds of the patients, scenes of violence are seldom or never witnessed, the patients manifest no terror ; and on recovery, retain no sense of degradation ; often after leaving the asylum coming to it again, as voluntary visitors to associates and friends, of whose good offices they are fully sensible.

"Signed, J. CONOLLY, M. D."

The good seed, scattered by Dr. Conolly has fallen, much of it, in barren places, but to-day the old mode of treatment, is condemned by the foremost alienists. By non-restraint I do not mean the absolute discontinuance of mechanical appliances under all circumstances whatsoever. No man who is not a fanatic on the subject, could possibly declare *a priori*, that there was no extreme case among the manifold phases of insanity, in which the application of restraint, might not be justifiable. Such cases, however, are extremely rare, and generally where the restraint is applied for so-called "surgical reasons." I have yet to learn that any Superintendent, who has once faithfully and conscientiously, tried the system of non-restraint, has shown any disposition to return to the old method.

The principle of non-restraint is no new thing in Utica, though it has not always been rigorously lived up to. There have been times before in the history of this asylum, when not a single patient has been in restraint: It has always been claimed, that the minimum of restraint was used, but

when its use is practically prohibited, there can be no question as to what that minimum means.

As regards the "Utica crib," I am willing to admit, that there are cases in which its use is justifiable. Such cases are very infrequent, however, and, in view of the great reproach that attaches to the so-called "Utica crib," I think we are consulting the interests of the greater number, when we abandon its use entirely, and substitute an alternative method of treatment, say the detailing of special attendants, to watch special cases, by night and by day. Over a year ago, a great number of covered beds were sent to the storeroom, and it was not found necessary, to return them to the wards.

The non-restraint system, is in practical operation in many State Asylums, throughout the country, with the most satisfactory results. I may mention in this State, the Asylum for the Insane at Ward's Island, which I visited last Sunday, and where I found 1,702 patients, and where no one was restrained. Dr. Trautman, the Superintendent, informed me, that for a period of four years, he had not had occasion to use it. Similar testimony comes from Dr. Carlos F. McDonald, at the Asylum for Insane Criminals at Auburn, and Dr. J. B. Andrews, of the Asylum at Buffalo, is also an advocate of the new method. At the Willard Asylum for the Insane, under the able administration of Dr. Wise, with a population of over 1,800 patients, occasion arose for the use of restraint in the cases of but four individual patients during the year just closed. Let me read what the Superintendent says in this connection :

"It has been found expedient and desirable, to reduce the use of mechanical restraint, by the substitution of attendants, willing and able to give patients, their personal care instead, and the occasion for its use does not now exist, except in rare instances."

In the Alabama Insane Hospital, at Tuscaloosa, which I visited last fall, and where I found over 700 patients, I was told by the Superintendent, Dr. Bryce, that mechanical restraint had, for the four years past, been entirely discontinued in his institution, and in his report, which I have just received, he re-affirms in the most emphatic manner, all that he has previously claimed in behalf of the new departure.

#### IV.

##### BEST METHODS OF CARE OF THE INSANE.

How shall the insane be cared for? What changes are needed in our present Asylum System?



What shall be done with the harmless, the inoffensive, but incurable insane?

These are the problems of the hour.

As not every insane person is benefited, by being placed in an asylum, our minds are turning to the example of the Colony for the Insane at GHEEL, BELGIUM.

The experience of ten centuries has shown the utility, the beneficence, the humanity, of this grand, this splendid effort.

BELGIUM is behind no country in the ability, the talent, the earnestness, and the intelligence of her alienists.

Whatever may be said by the alienists of other countries, I have never heard the name of one Belgian who did not speak in praise of the Colony at GHEEL.

The Government has determined to found another Colony, and has done so recently at LIERNIEUX, after the plan of Gheel.

ODERT, whose death was chronicled in the December number of the *Medico Legal Journal*, has linked his name indissolubly with this great work.

How will this System of Family Care of the Insane work in America? What would be the effect on 60 per cent. of the present inmates of Asylums, if they could be removed into homes (one, two or three in a family), where they would be kept and cared for, by the women of the household, have no bolts, bars or other asylum restraints, and be free from that feeling of incarceration and imprisonment, which is uppermost in the mind of the insane, and stands oftentimes so much in the way of their cure?

A word about GHEEL. It is a village in which nearly every inhabitant takes from one to three insane persons, to take the whole care of.

These people, their fathers and mothers before them, for centuries, have had the care and charge of the insane, as members of their families. The system is family life, and that, for the insane, has its charm, and doubtless is the secret of its efficacy and success. The utmost liberty of action, is given, no bolts, bars, restraints ; none whatever. Each inmate comes and goes as he pleases. The cures are wonderful and remarkable. In 1885, there were 1,653 patients in GHEEL living thus in private families. Dr. Peeters, one of the most competent of the Belgian Physicians, is Medical Superintendent of the Colony, and he has an able corps of assistants. The Government has named seven Commissioners, who are Supervisors, and the Governmental Inspector General of Insane Institutions has also, as we believe, this Colony under his supervision.

There are two clinics, each in charge of a medical man, and six visiting attendants. Care, food and clothing is left to the family in which the lunatic resides. Dr. D. Hack Tuke reports in his *Journal (Journal Mental Science, January, 1886, p. 481)*, the result of his personal observations on a visit made in September, 1885. The town (Kempenland) has a population of 11,000, the village of 5,000. There are 3,025 homes, of which 1,100 receive lunatics.

There are 160 *Hotes* who take charge of the better class or paying patients, and there are about 1,000

“nourriciers” or those who take charge of the insane. The people are mostly small farmers.

The colony is divided into two sections, over each of which is placed one medical man and an assistant, and under these sectional physicians are six “guards,” or what may be called visiting attendants.

One of the most difficult problems of asylum life is to know how to successfully manage the insane of filthy habits. Dr. Tuke says, in this regard, of Gheel, that Dr. Lentz, superintendent of the asylum at Tournai, said to him “to place those of dirty habits in the family of a care taker or nurse, is to remedy every inconvenience.”

The highest sum paid by a private patient was £200 a year. The scale of such payments is £16, £20, £28, £40, £48, £80, £96, £120, £144, depending on the accommodations furnished.

The cost to the government of the indigent patients is divided into three classes. The clean, the dirty and the semi dirty. The first pay 8d. per day, of which 6d. goes to the nurse for board. The second class pay 10½d. per day, of which 9½d. goes to the nurse. The semi dirty pay 9d., of which 7d. goes to the nurse.

Belgian pays 11d. per day for her inmates in her insane asylum, so that the Colony at Gheel is to her an economy.

The new Colony at LIERNIEUX was founded because at least 2,000 of Belgian insane in institutions as Mr. Oudart contended, would be better off in such a Colony, and the government would save the difference, besides

obviating the necessity of constructing new asylums at great cost, and leave more room for the inmates when these were removed.

At Gheel, 72% of the insane are furnished employment ; nearly 400 men and nearly 100 women were employed on the little farms and in the fields, while many more of the women were working indoors, and in making lace. Among the men, some work as masons, painters, carpenters, tailors, care being taken by Dr. Peeters that there shall be plenty of occupation ; “yes, fatigue, rarely ; overwork, never ;” and that all service merits remuneration.

Notwithstanding the unusual freedom and liberty of action, no homicide has occurred since 1850, thirty-six years. Only one instance where a patient had offered violence to the daughter of his care keeper. Since 1878 no fire has occurred at Gheel, attributed to the act of any patient !

Suicides are very rare, and as to illegitimate births, only three or four in the whole colony in 10 years ! In one of these cases, due to an oversight in allowing an insane woman of known erotic tendencies to be placed in same house with an epileptic, both of the troublesome class. Dr. Chas. W. Pilgrim corroborates Dr. Hack Tuke, as to fires, homicides, suicides and illegitimate births, but claims that patients with known homicidal, suicidal or dangerous tendencies are not sent to GHEEL (Amer. Journal of Insanity, July, 1886, pp. 320, 321). No restraint can be used without Dr. Peters' permission.

I have had under observation for some time, cases of inmates of institutions, regarded by able physicians as not only Chronic Insane, but of the most destructive and violent types, while closely confined, who changed their whole demeanor and conduct the moment their restraints were removed. Freedom from restraint and from confinement, seems almost to have worked a cure in itself. They became peaceable, tractable and capable of self-control. Most superintendents must see similar results in their experience.

DR. WISE, the able superintendent at WILLARD ASYLUM has closely observed it, and mentioned it to me.

The value of out of door work, especially upon farms, or in agricultural pursuits, cannot be over estimated. The Superintendents of our large asylums, recognize the value of this wonderful aid in the care of the insane, and in their control and cure. Dr. E. A. Macdonald, Superintendent of the New York City Institutions for the Insane, was asked : "Where are your violent cases, Doctor ?"

"There they are, at work, digging and casting off that earth," pointing to a group of laborers leveling the ground.

No matter how excited a lunatic is, he will work out of it, if furnished with hoe and shovel ! The new provisions for the New York City Insane, look to a large farm and constant, regular out door employment, as one of the best agents and auxiliaries in the matter.

MASSACHUSETTS is ambitious not to be behind in this great work.



She passed in 1885, an act, authorizing her State Board of Lunacy and Charity to arrange for boarding out lunatics of the chronic class.

(Chap. 385, Law of Mass., 1885.)

Through the kind courtesy of F. B. SANBORN, of Boston, Secretary of her Board of Lunacy and Charity, I have received the circulars sent out last year, to the subordinate officials in that commonwealth, introducing the new system.

Thus has the begining of the new departure been made. The seed has been sown here in New York, and should take root, during the present session of the Legislature.

It has worked well in SCOTLAND, and the experiments in GERMANY are promising.

We are on the eve of important forward movements in AMERICA, for the welfare of the Insane and a general improvement in their condition, as well as their care and treatment.

The English Lunacy Commissioners, commenced in 1885, some work of this character. They report that seven idiot boys out of the Sussex Asylums, were placed in adjacent cottages, and boarded out, while 62 patients from this asylum, were discharged, either relieved or improved, to work-houses or care of friends.

They also report that on January 1, 1885, there were in England and Wales, 5,896 pauper lunatics, boarded out in private houses, or living with relatives and friends, being above 8.28 per cent. of the whole number of pauper lunatics in these countries. The Superin-

tendents of English Asylums in same year, reported that 4,000 of their patients could, with propriety, be transferred to pauper workhouses.

The experiment in SCOTLAND shows, that in 1885-1861, pauper patients were in private dwellings, but only 926 of these are boarded with strangers. KENNOWAY, in FIFESHIRE, is a place where considerable numbers are placed in SCOTLAND, but there is NOT in SCOTLAND any colony at all comparable to that of GHEEL.

In Scotland, these patients are not concentrated in one place, as at GHEEL, but are scattered all over the Kingdom. The Scotch Commissions place it on the true ground.

They make this arrangement for their patients, "Because treatment in asylums is forced on us, \* \* and if there is a class of the Insane, for whom asylums are not necessary, it becomes a duty to endeavor to provide for them in other and more ways." (Report of Scotch Lunacy Com., 1885, p. 131.)

These practical Scotchmen mean, that as a matter of both duty and economy, it is better to arrange for the boarding out, of quiet, inoffensive, harmless, chronic and incurable insane in private families, with proper supervision, and suitable medical care, than to either crowd them into asylums, or build new asylums for them.

In America we are still in the era, of building asylums, but we are on the eve of calling a halt, and asking our Superintendents, to report how many quiet and harmless insane, could safely be placed in private families, to do



light work, and have plenty of air, exercise and freedom of action.

MUSIC has exercised a wonderful curative and tranquilizing power over the disordered intellect, to which much greater stress was given by the ancients, than with us.

The sweet strains of delicious music, will quiet the most excited and raving maniac, a thousand-fold quicker and more completely, than any of the barbarous appliances of chains, or force in any form, and cheerful and merry companions, pleasant surroundings, and good cheer, will restore the light of reason, better than medicines, or bolts or bars.

These aids were better understood by physicians of the past, than of the present, and asylum superintendents who will study attentively, the influence of these, aids to diseased brains, will be astounded at the results they will meet. *Amuser toujours amuser* should be the motto of asylums.

## V.

### CORPORAL PUNISHMENT OF THE INSANE.

I think such an idea is an outrage upon our civilization.

It is clearly in violation of the existing laws to punish an insane person for any reason, much less for an offense.

If, by the law, an insane person is held not responsible before the law, for his acts, how can he under the law, be made a legitimate subject of punishment ?

“If anyone is to be struck in an asylum, let the attendant or keeper, be the anvil, not the patient,” said the talented THEODORE MEYNERT, of Vienna.

An attendant or keeper who, under any circumstances, struck an insane patient, should be at once discharged, and then punished.

The brutality of attendants is proverbial. Superintendents should keep a very watchful eye upon them, and the morale should be raised, and the standard of excellence advanced.

One good attendant, is worth two poor ones. One kind attendant, with *savoir faire*, is worth two brutal ones, with the idea of coercion by brute force.

## VI.

### INSANITY AND CRIME.

#### LEGISLATION.

At the root of all reform, at its fountain head, and source, stands the Legislature—the law making power. It must work from enlightened public sentiment, and upon intelligent inquiry. The advance was made in England, by Parliamentary Inquiries. It can probably be only done so here, or can be so best done.

In Pennsylvania, Governor HOYT, named a commission without legislative enactment, and requested them to report to him, as Governor.

He made their report, the basis of his executive recom-

mendation, to the Legislature of Pennsylvania. From this, came the new Pennsylvania law, by far the best on any of our American Statute Books.

We should ask the Legislature, to name a commission, if our own Governor does not name one. The Lunacy Statutes need practical changes. No one pretends, to defend the sections upon commitment, of the insane.

These statutes as they now stand upon our Statute Books, violate natural rights, and conflict with the organic law.

AS TO INSANITY AND CRIME, the law should advance with the progress of science, *pari passu*. It is a disgrace to our civilization, to hang the insane who commit homicides.

Seventy per cent. of the inmates of asylums, can discriminate between right and wrong, and know that such and such an act, is against the law, and will bring punishment.

Under the law, as charged by the Court, in Guiteau case, he would have been held guilty by any jury.

When reason is so far unbalanced, that the liberty of the citizen, threatens the life, the property or the security of others, society has the undoubted right, to suspend the personal liberty of the citizen, but this can only be done, by due process of law, and in a judicial proceeding.

It is a simple mockery of justice to say, that on an affidavit of two physicians, who may have never seen a case of insanity, a citizen can be placed in an asylum, as

insane for five days, without the order of a Court, or Judge.

A Judge should be required, either by statute or public sentiment, never to sign such a commitment, without he has had a preliminary examination, satisfactory to his mind judicially, that the person charged is not only insane, but that he is a proper case, to go to the asylum. In every case, where the slightest doubt exists, the Judge should pass in the same manner, that he would on *habeas corpus*, sued out by one charged with wrongful imprisonment.

The legal mind, should be brought nearer to the medical view of insanity, and tests of *responsibility* will follow in true sequence. Proper care and confinement, in an asylum for insane criminals, so called, is much better for our civilization, and far more so for a lunatic, than the scaffold.

Executions, at best, are horrible pictures, no matter from what angle the light falls upon them, or through whatever colored medium may we regard them.

It is a glaringly, horrid, and lurid spectacle in this age, so near the close of the 19th century, to see erected near the *tribunals* of a free people a *scaffold*, on which the law suspends, from a mistaken or distorted notion of its own majesty, the dangling form of a lunatic bereft of reason, as punishment for a supposed crime.

I think it was CHARLES SUMNER, who said 25 years ago, "that he knew no sadder sight, than a woman for sale, upon the auction block."

The war has effaced that picture from our view,

washed it away with rivers of blood. To me, it is far more revolting, after the advancing light, which science has thrown upon the subject, for a quarter of a century since the Massachusetts Senator spoke, to see the legalized judicial killing, of the Insane, for alleged homicides !

That the revolution which will efface the latter, may be as bloodless, and yet as complete, must be the hope, of all philanthropic hearts.

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Re-print from *Medico-Legal Journal*.









*From a Painting by Cave.*

ORIGINAL BUILDING OF THE RETREAT, YORK. INSTITUTED 1792.





## YORK RETREAT.

We are indebted to the kindness and courtesy of Dr. D. Hack Tuke, of London, for the portrait sketch of his ancestor, William Tuke, which we give in this volume. It is from a pen and ink sketch preserved in the family. The memory of William Tuke, like that of Connolly, Pinel and Guislain, will be green and blessed as the years roll on.

It seems to us fit, when we give this face to the world, that we should also give with it the theatre of his early work, that York Retreat which he made famous among alienists and philanthropists throughout all the world as the spot, where a new doctrine, a new truth, and a new force was to be planted and take root, in the care and treatment of the insane, in place of that system whose scandalous abuses had been exposed in a private asylum at York, near the site of the institution founded by the Society of Friends through his instrumentality and zeal. The foundation-stone of York Retreat was laid in the fullness of the new doctrine of *love*, of *tenderness*, of *kindness* in the care and management of the insane.

This was the inscription cut into it :

“HOC FECIT.

AMICORUM CARITAS IN HUMANITAS

ARGUMENTUM,

ANNO DOMINI, MDCCXCII.”

This cut is reproduced from the frontispiece of the work of Dr. D. Hack Tuke's "History of the Insane in the British Isles."

It is the old Retreat founded in 1792, and is that known in England in 1813 as the pioneer institution for ameliorating the condition and treatment of the insane, famous throughout Christendom, and indissolubly associated with the name, fame and memory of William Tuke and his descendants.

C. B.







*PHILIP PINEL,  
Statue.*







### PHILIP PINEL.

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Born April 20, 1745, near the close of the first half of the eighteenth century, it was not till the end of 1802, and near the beginning of the nineteenth, at the height of the French Revolution, that he was able to consummate the crowning purpose of his useful life in striking off the chains of the unfortunate in the Bicêtre, which was soon followed at Salpêtrière, and to lay on sure foundations, the sound doctrine of humanity and love, in the conduct and management of the insane.

He died October 26, 1826, at a ripe old age of eighty-one years, full of honors, and strong in the confidence and affection of the French people.

*"It is well to honor the illustrious dead, but it is still better to perpetuate their memory,"* says the venerable ex-President of the Société Médico-Psychologiques, at the dedication of the statue placed to his memory, in Paris, on the Place de la Salpêtrière—in the name of that Society.

Dr. D. Hack Tuke, the son of the illustrious founder of the York Retreat, says of Pinel to the committee in charge of the inauguration of the statue: "The works of Pinel, in truth, proved that he was a messenger sent from God for the insane."

“ He remains for France the grand figure to whom all alienists render just homage.”

Dr. Anton Ritti closed his eloquent address by saying of Pinel : “ That he effaced from the portals of the sombre dwellings of the insane, that fearful inscription : ‘ Leave hope behind, oh ! ye who enter here ! ’ ”

The greater lesson of this life, and its long delayed public recognition is, that the alienists of France, near the close of the nineteenth century, place in enduring and eternal remembrance this statue, in honor of their greatest name, after almost a hundred years have crowned with immortal glory the sublime teachings of his useful life. The print we give is a copy of the statue erected in Paris to the memory of this celebrated Frenchman, as reproduced in the journal *Annales Médico Psychologiques*, the organ of the Paris society under whose auspices, the statue was erected in the French capital in 1885.

C. B.





JOSEPH GUISLAIN,  
*Bust.*







## JOSEPH GUISLAIN.

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By JULES MOREL, M, D., HOSPICE GUISLAIN, BELGIUM.

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Guislain was born in Ghent, February 2, 1797, and began his medical studies in the School of Medicine Department of the Schelde, and took his degree of physician in 1819.

From that time commenced his interest in the welfare of the insane, with whom he came first in contact in an asylum of the town. He witnessed the inhuman treatment inflicted upon these poor beings, and his generous heart was moved. He decided to help these unfortunates, and directed his studies to mental diseases. In 1827 his "*Traité de l'Aliénation mentale et les Hospices des Aliénés*" was published. In this work he depicts the sad position of these poor people, and shows the moral and physical methods by which their health may be restored. This book was a success, and Guislain was appointed chief physician of the Insane Asylums in Ghent. In 1835 he published his "*Traité sur les Lois*," and from that moment he never doubted the possibility of the recovery of these people, till then abandoned, and victims of the most revolting ignorance and carelessness. This work was quite a revelation, and had the honor of being translated into different languages. Guislain became

with Pinel the liberator of the insane ; all his life was then devoted to their cause.

Children have their St. Vincent de Paul, and the deaf and dumb have their Abbé de l'Épée, but till that day nothing had been done for the insane. In 1838 he published "*Un Exposé de l'État des Aliénés en Belgique*," in which he describes to us the patients kept in their families more numerous even than those who were in the asylums. It was thought the patients did not feel heat or cold, nor the bad treatment inflicted upon them. These poor unfortunates were badly fed, left to themselves, in houses squalid beyond imagination.

Cheerless, forgotten by those whom once they loved, they generally died for want of care. In the public institutions their situation was not better in any respect ; they were locked up without the order of a physician ; there was no protection for them at all.

It devolved upon Guislain to awaken the government from the apathy, and a commission of ten members was intrusted with the duty of improving the condition of the insane. Guislain was the reporter, but, in spite of all his activity, it was not till 1850 that the Parliament adopted a law which spoke in favor of the insane. This improvement, however, did not prevent Guislain from continuing his philanthropic efforts. With the help of the criminal authorities he organized the asylums of Ghent, and in 1851 the commission of the civil hospitals built an asylum (*modèle*), which is to-day world-renowned. The old prison is to-day a palace ; the jail, locks, chains,





JOSEPH GUISLAIN,  
*Proposed Statue.*







have disappeared and made room for beautiful lawns, where green grass and flowers are found in abundance.

From that time a great many asylums were built. Guislain was Professor at the University of Ghent, and lectured upon philosophy and mental diseases. The last course was published in 1852, under the title "*Leçons orales sur les Phrénopathes.*" This edition was soon exhausted, and where it was sold it was necessary to pay a price higher than it had cost the bookseller. D. Yugeles published in 1871 a new edition, with notes prepared by Guislain himself for a later edition, augmented by a notice of the chief progress which the science of mental medicine had since made. It is in this refined work that one can admire the noble intelligence, the sure judgment, the profound knowledge, and the philanthropic heart of the writer.

He sacrificed all for the sake of the insane, he loved them, they constituted for him a family to which he devoted his existence. A great many authors praised this great man, but it was left to a foreign physician, Dr. Brierre de Boismont, to put in a clear light the merits of this great scientific man and the noble qualities of the great philanthropist. His name, esteemed by all physicians who pay attention to mental diseases round the world, was immortalized after his death, which occurred in 1860. The asylum for which he spent the best part of his life bears his name, and the Commission of Ghent rendered thus a well-deserved homage to the reformer of asylums, and the liberator of the insane.

More than that, Guislain extended his sphere of action to the development of mental diseases. He worked ardently to obtain a law against alcoholic excesses. In a word, he did not lose a moment in his life; he was a genuine thinker, but practical and of unequalled perseverance.

His last will was made in favor of the insane; he left for them and to the coming scion of the hospitals in Ghent \$10,000, besides his library and a collection of paintings, which is kept in the hospital in Ghent. His marble bust, the work of Antoine Van Eenaeme, was offered to him by his old pupils, in homage of his great talent and his devotion. It is kept in the public library in the University of Ghent.

He was the founder and the President of the Society of Medicine in Ghent, and to this society he bequeathed also a sum of money, to help defray the expenses of lectures, and to institute a prize every five years. As a man, Guislain was sincere, of a noble character, dreaming only of good. He was simple, unassuming and very amiable. The day he was buried was a day of mourning for his entire native town, because one of its most worthy citizens was lost forever; a man whose only aim was to do good, who was in the habit of attacking abuses, but with great tact and strong arguments. As we have said already, the memory of Guislain is not likely to be forgotten by a grateful nation.

The Belgian physicians, in a meeting in 1882, in the hospital "Guislain," declared loudly that not enough







W. J. L. & CO. N.Y.



had been done for the benefactor of humanity, and they decided to perpetuate his memory by erecting to him a statue. A public subscription was opened; the city and the provinces brought their contingent, but, better still, the physicians throughout the world felt it their duty to co-operate in paying this debt of gratitude.

There was a competition among different sculptors of the country, and it was to M. Hausburs de Schaerheekler, of Brussels, that the great honor fell of reproducing the noble features of this illustrious son of Belgium. While I write these lines, the statue of Guislain is an object of admiration to the public who visit the *Salon des Beaux Arts* in the birthplace of the immortal physician.

NOTE BY CLARK BELL, ESQ ,

The gifted and lamented B. C. Ingles, in response to a request for a portrait of Guislain, to be sent the editor of the MEDICO-LEGAL JOURNAL, re-mitted a fine copy of Dr. Burggraeve's work entitled " *Etudes Medico-Psychologiques de Joseph Guislain* " (Th. Lesique, Brussels, 1867), which contains the portraits we reproduce in this volume. The first is a copy of the bust of Guislain, by A. Van Eenaeme, and the other was the design of a statue in his honor by the same artist.

Dr. Ingles engaged to write for the journal the sketch that was to accompany these representations. His sad death prevented this work by him, but to whom could it be better intrusted than to his friend and colleague, Dr. Jules Morel, then President of the Society of Mental Medicine of Belgium, the friend, admirer, compatriot and colleague of Guislain, and who has now been made Superintendent of the Hospice Guislain, named in his honor.

The statue here given must not be confounded with the statue since erected to the memory of Guislain.

The name of Guislain and his memory will remain immortal, and, like those of Pinel in France, Connolly and the elder Tuke, of England, will stand as bright and lustrous lights, to mark the changes they inaugurated early in our century, for the amelioration of the condition of the unfortunate insane confined in public and private asylums.



The translation of the sketch of Guislain, from the French, was made by Mrs. Dr. S. N. Leo.

The copy of the statue erected to Guislain at Ghent, Belgium, by his compatriots and toward which his admirers throughout all the world contributed was presented to me by Dr. Jules Morel, now successor of Guislain in the Hospice Guislain, on my recent visit to that institution.

It has thus far been out of my power to obtain any portrait or engraving of Guislain.

# Eighth Inaugural Address

OF

CLARK BELL, Esq.

AS PRESIDENT OF THE MEDICO-LEGAL SOCIETY OF NEW YORK.

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PRONOUNCED JANUARY 10, 1888.

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## *Fellows of the Medico-Legal Society :*

I shall ask you to briefly glance, over the labors of the body during the past year, to look at its present position, its objects, aims, future prospects and responsibilities, and speak of the progress of Medical Jurisprudence as a science, in the world, at the present moment.

## MEMBERSHIP.

Our roll of active members, December 31, 1887, contained 273 names, of Corresponding 148, and of Honorary 11, making our total membership 432. On December 31, 1886, our roll contained 389 names--258 Active, 120 Corresponding and 11 Honorary. We have elected during the year 48 Active and 31 Corresponding members. Total, 79 members.

The active members on December, 31, 1887, were : Lawyers, 138 ; Doctors, 124 ; Scientists, 11. Total, 273.

The Corresponding members were: Lawyers, 19; Physicians, 119 ; Scientists, 10. Total, 148.

Honorary members : Legal, 5. Medical, 6. Total, 11.

The increase in membership has been, over and above all losses by death or resignation : Active members, 15 ; Corresponding, 28 ; total 43.

We have lost by resignations, 29 ; deaths, 7 ; total, 36.

#### NECROLOGY.

The loss by death to this body during 1887 has been serious. Among the active members we have to mourn :

AARON J. VANDERPOEL, the eminent lawyer.

HORATIO F. AVERELL, Esq., of the New York Bar.

DANIEL R. LYDDY, Esq., of the New York Bar.

Dr. JOHN M. CARNOCHAN, the eminent surgeon of New York.

#### *Corresponding Members.*

Dr. JEAN TH. GALLARD, who was the Secretary of the Medico-Legal Society of France from the day of its organization to his death.

Prof. Dr. AUGUSTIN ANDRADE, an eminent physician and scientist of Mexico.

Judge GUY H. McMASTER, Surrogate of Steuben County, New York, at Bath, N. Y.

HENRY BUIST, Esq., of Charleston, S. C.

#### THE WORK OF THE YEAR.

The following papers have been read before the Society at its meetings, a large number of which have appeared in the MEDICO-LEGAL JOURNAL :

*The Retiring Address, January, 1887, of President ISAAC LEWIS PEET, M.D.*

*The Inaugural Address, January, 1887, of President CLARK BELL, Esq.*

*"Some Aspects of the Druse Case,"* by E. W. CHAMBERLAIN, Esq.

*"A Simpler and more Intelligent Classification in Mental Diseases Important,"* by Prof. J. J. ELWELL.

*"Insanity and the Care of the Insane,"* by CLARK BELL, Esq.

*"Prison Labor and Public Utility,"* by LOUIS LIVINGSTONE SEAMAN, M.D.

*"Isaac Ray,"* by CHAS. K. MILLS, M.D., of Philadelphia, Pa., President American Neurological Association.

*"The Penal Aspects of Suicide,"* by L. C. WHITON, Esq., of New York.

*"The Mental and Physical Capacity of Man, in the Rapid Expression, Receiving and Recording of Language,"* by R. S. GUERNSEY, Esq., of New York.

*"Opium Inebriety,"* by Dr. IRA RUSSELL, of Mass.

*"Criminality,"* by W. G. STEVENSON, M.D., of Poughkeepsie, N. Y.

*"The Relation of Intemperance to Insanity,"* by CLARK BELL, Esq.

*"The Post Mortem Imbibition of Poisons,"* by GEO. B. MILLER, M.D.

*"Imbibition of Poisons,"* by Prof. JOHN J. REESE.

*"The Medical Jurisprudence of Insanity,"* by CLARK BELL, Esq.

The same general subject by Dr. NORMAN KERR, President of the British Society for Study and Cure of Inebriety; Dr. JOSEPH PARRISH, President of the American Society for Study and Cure of Inebriety; ANTHONY L. DYETT, Esq., of the New York Bar; CHAS. H. HUGHES, M. D., Editor *Alienist and Neurologist*, St. Louis, Mo.; Ed. C. Mann, M. D., of Brooklyn, President American Society of Anthropology; T. D. CROTHERS, Editor *Journal of Inebriety*; T. L. WRIGHT, M. D., of Bellefontaine, Ohio; Rev WM. TUCKER, M. D., of Mt. Gilead, Ohio; Mrs. M. Louise Thomas, President of "SOROSIS;" Dr. L. W. Baker, of Retreat for Epileptics of Baldwinsville, Massachusetts; MORRIS ELLINGER, Esq., late Coroner of New York; LUCY M. HALL, M. D., of Brooklyn, N. Y., these papers were read at November and December meetings of the Society, the reading and discussion of which was presided over by ex-Chief Justice Noah Davis. They were discussed by Messrs. AUSTIN ABBOTT, Dr. W. G. STEVENSON; Dr. MASON, consulting physician to Inebriates Home, Fort Hamilton; Dr. FRANK L. INGRAM, Dr. EMMETT L. DENT, of Insane Asylum, Ward's Island; Dr. W. F. HOLCOMBE; Dr. CHAS. S. SHEPARD, of Brooklyn; Dr. IRA RUSSELL, of Winchenden, Mass.; President Clark Bell, Esq.; Dr. S. WATERMAN, of New York; Dr. A. JACOBI, President New York Academy of Medicine; Dr. ISAAC LEWIS PEET, Superintendent Deaf and Dumb Asylum; Dr. S. K. PADDOCK, Medical Examiner of Springfield, Mass.; and the discussion was summed up by ex-Chief Justice NOAH DAVIS.

## BANQUET.

The Society gave its annual banquet at the Hotel Buckingham, where its meetings have been held, it was largely attended by members and their wives, and by distinguished guests, from neighboring States and cities were present.

## PRIZE ESSAYS.

It has been decided by the Executive Committee to offer three prizes : First of \$100 ; second of \$75 and third of \$50, for the first, second and third best essay, on any subject within the domain of Medical Jurisprudence. The first prize offered, is by our member ELLIOTT F. SHEPARD, Esq., and the remaining prizes are donated by a few members of the Society.

The details have appeared in the JOURNAL, and it is hoped most of our members will compete for these prizes, which are announced to close on April 1, 1888.

## MEDICO-LEGAL JOURNAL.

The most important work of the body is doubtless wrought by the Medico-Legal Journal, in disseminating throughout the scientific world, the papers read before it, and awakening interest in the science, among its students everywhere. Aside from the publication of a part of these papers, and the discussions thereupon, the JOURNAL, has published portraits of Dr. JOHN P. GRAY, late Superintendent of Utica Asylum, and a sketch of Utica Asylum as it stood in 1867 ; a portrait of Dr. ISAAC



Ray ; a copy of the bust of the great Belgian alienist, JOSEPH GUISLAIN, with a sketch of a statue proposed to his memory (but not the statue unveiled at *Ghent* last July) ; a portrait of AARON J. VANDERPOEL of the New York Bar ; of Hon. GUY H. McMASTER, Judge and Surrogate of Steuben County, New York ; a portrait of the Elder TUKE of England, reproduced from a drawing in the hand of his descendant D. HACK TUKE, and a cut of YORK RETREAT, as it existed at the time of his labors.

The circulation of this journal has steadily increased, but it needs the active support and co-operation, of the members of this body to make it more successful and useful.

During the past year I have sent the following circular letter to many eminent Alienists, Jurists, Judges, Scientists and Publicists :

MEDICO-LEGAL JOURNAL ASSOCIATION,  
Office of the Editor,  
No. 57 Broadway.

NEW YORK, 1887.

DEAR SIR :

Please give me your idea of the best definition of insanity under our present knowledge of that subject.

Also what in your judgment should be the legal test of criminal responsibility for acts committed by persons suffering from any form of mental disease. I am making a study of these topics, and would feel greatly obliged for your views.

Very faithfully yours,

CLARK BELL.

Of replies received many have been published in the JOURNAL. I should be glad to receive responses to these queries from every member of the Society, who has not

already responded, whether Active, Corresponding or Honorary, as well as from all Judges, Lawyers, Medical Men, Superintendents of Asylums, Alienists or others interested in this subject whose eye it reaches.

#### MEDICO-LEGAL PAPERS—SERIES 4 AND 5.

Pursuant to my recommendations of last year, subscriptions to the proposed volumes have come in sufficient, to warrant the Executive Committee and the Society, to authorize the publication of Volume, or Series 4, which it is hoped will be completed the present year.

New members and all members, who have not subscribed for these volumes, are urged to send their names at once to the President, or Secretary, so that the burden of publication may fall lightly on the Society and be distributed widely among members. The list of subscribers has appeared from time to time in the JOURNAL. and the cost is \$3.50 per vol. in cloth and \$2.50 in paper.

#### THE LIBRARY

Has received very little attention during the past year from our members. This has been a subject of regret to me, and the question of a suitable home and location for our library, is one of the most important questions, which the body has before it for consideration, to which I invite the earnest and thoughtful attention of the Executive Committee, and of every member of the Society.

#### OUR AIMS.

To my mind the present endeavor of this Society, should

be to increase its active membership, in the various States and Territories of the United States, with a view of making the body thoroughly national in character, and not local in any sense, except as to the place where its sessions must needs be held, in the metropolis of the country. This has been our policy for the past few years to some extent, but it should, for the present at least, be more pronounced, and more aggressive.

If ten men could be selected at the least, from each American State and Territory, who occupied prominent positions in the Legal or Medical professions, or as Chemists, Scientists or Publicists, it would bring the Society into a greater sphere of usefulness, broaden and widen its fields of action, and bring to its notice questions arising in the Courts of the American States, for active discussion and criticism, which would be of enormous consequence to the progress of the science in America.

Judge H. M. SOMERVILLE, of the Supreme Court of Alabama, who has recently joined this Society, and P. BRYCE, M.D., Superintendent of the Insane Asylum at Tascaloosa, Ala., who unites to-night, will take the lead of this work in the State of Alabama and in some of the Southeastern States, while prominent gentlemen in other States will aid the work.

We have now members in most of the States and Territories. We have no members in thirteen of the States, and we should take steps at once to bring this subject to the attention of prominent men in all these States.

As we vote by ballot, by mail, non-resident members need not feel under obligation to attend the sessions, unless convenient, and to aid this movement I have recommended that the Constitution and By-Laws be so amended as :

1. To reduce the annual dues of members residing outside the State of New York to \$2 per annum, which will give them the Journal free, the price of which is \$3 per annum, which recommendation has been unanimously adopted this evening.

2. To increase the number of Vice-Presidents of the Society, so that one may be chosen from each State or Territory, to these responsible positions, from representative men and thus widen and broaden the influence of the Society, which plan will come before the body at its next session.

#### PUBLICATIONS.

The Committee on Publication and the Executive Committee, are considering the propriety of publishing in one volume, the various papers read before the body on Alcoholism and the Medical Jurisprudence of Inebriety. These papers, with the discussions upon them, would make a respectable volume, containing the labors of a large number of scientists, and would be a valuable contribution to the literature of the world, upon a subject now arresting public attention.

This must be done by private subscription, as the financial situation of the Society, would not at present warrant such an expenditure, in addition to the obliga-

tions which it has assumed, to the MEDICO-LEGAL JOURNAL and for the publication of Medico-Legal Papers, Series 4 and 5.

A subscription has been circulated which will defray a portion of this expense, and it is proposed that the residue can be met by a subscription to the work itself, which will be furnished to all who choose to subscribe at the nominal price of 50 cents in cloth and 30 cents in paper.

Members desiring to aid this work will kindly send their names and the number of volumes for which they subscribe to the President or Secretary without delay.

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## THE PROGRESS OF THE SCIENCE.

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### AMERICA.

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The increase of interest is marked and well developed. The MEDICAL JURISPRUDENCE SOCIETY OF PHILADELPHIA, is flourishing and doing a good work. I submit a list of the papers read before this Society during the past year, kindly furnished me by the honored Secretary, Dr. Henry Leffman.

Live Birth in Medico-Legal Relations. By Dr. JOHN J. REESE.

Will Contests. By WALTER E. REX, Esq., late Register of Wills for Philadelphia.

The Handwriting of the Insane. By HENRY HAZLEHURST, Esq.

The Claim of Moral Insanity in its Medico-Legal Relations. By J. HENDRIE LLOYD, M. D.

A Summary of the Weaver Case. By HAMPTON L. CARSON, Esq.

A Strange Homicide Case. By JOHN T. ESKRIDGE, M. D.

CRIMINAL PSYCHOLOGY. By W. D. ROBINSON, M. D.

Suicide in its Relations to Insanity. By WM. N. ASHMAN, Esq., President of the Society.

In addition there was a special joint meeting, with the Neurological Society, on January 24th, 1887, at which several papers on the care and treatment of the insane were read and discussed.

The following officers were elected January 10, 1888 :

President, Dr. C. K. Mills ; Vice Presidents, J. A. Clark, Esq., Henry Leffman ; Secretary, Dr. F. X. Dercum ; Treasurer, P. H. Coggins ; Recorder, Dr. G. M. Bradfield.

The same can also be said of the CHICAGO MEDICO-LEGAL SOCIETY and it is a source of great pleasure to see the interest maintained in these great cities by our sister societies. I am indebted to its Secretary, Dr. Scott Helm for a list of the papers read before it, and of their authors.

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The MASSACHUSETTS MEDICO-LEGAL SOCIETY is making steady progress in its domain, being the organized action of the MEDICAL EXAMINERS of that State, who take the place of the CORONERS that have been abolished



there. The result of their Conference and combined action, the value of the statistical and other valuable scientific data thus collected, cannot well be estimated, but enough has transpired to commend it to the American States, as an example well deserving emulation and imitation.

While one or two journals in America have been recently discontinued owing to special causes, it cannot be doubted that the general interest in the profession of Law and Medicine in the Science of Medical Jurisprudence is decidedly on the increase—but this is rather among individuals, than among the professional organizations.

There was no section of Medical Jurisprudence at the recent International Medical Congress at Washington, and the science is almost wholly neglected in the American Bar Association, and, so far as I am aware, in the State Bar Associations, though it is to be hoped this will receive more attention in the near future. While the same criticism is true as to National and State Medical Associations it must be conceded that the science has received greater attention among the Medical Schools, than those of Law. A chair of Medical Jurisprudence, should be in every Law as well as Medical School, and of course, in every university of learning.

#### LUNACY STATUTES.

The Governor of New York in his recent message, has urged the revision and modification of our lunacy



statutes, in deference to public sentiment, and this subject will come before the present Legislature assembled at Albany. Thorough and intelligent revision of our lunacy statutes can, however, hardly be well done, by a Legislative committee, in the hurry and crowded character of its deliberations.

This work has hitherto been most successfully accomplished, by selected Commissioners in France, Italy, Great Britain, Pennsylvania and elsewhere, and we hope to see Gov. Hill name a Commission composed of men selected for their ability to meet these questions, requested to submit a complete revision of our lunacy statutes, which should be done without expense to the State, so far as the labors of the Commissioners are concerned.

#### MEDICAL EXAMINATION IN LIFE INSURANCE

Is a subject of very great importance, and deserves more than a passing notice.

This country now leads the world in life insurance. This must be its attitude for the few remaining years of this, and for, doubtless, the first fifty years of the twentieth century.

Its success must largely depend upon the ability and care of its Medical Examiners.

Medical men need special training for this work, the same as for any branch of skilled scientific labor. A Doctor merely as such, is no more fit for this duty, without special knowledge, than he would be to pass on a question of lunacy, or to give an opinion on a poisoning

case. This subject deserves our careful thought. Mr. W. M. TAYLOR, Vice-President of the Connecticut Mutual Life Insurance Company, has recently contributed an able paper on this subject. Dr. CHARLES F. STILLMAN has written a treatise upon it, which will shortly appear.

It is one of the live questions of the hour.

#### GREAT BRITAIN.

There is as yet, no national or local society of Medical Jurisprudence, in the British Islands.

In SCOTLAND more attention seems to be given to the science, due doubtless to the influence of the chairs of Medical Jurisprudence in the Scotch Universities.

The Bar is behind the Medical profession in the matter, and the obstacles in the way of uniting the two professions, in one society for common work in this science, seem, insurmountable up to the present moment. It is to be hoped that some of the men of the Bar, will take the initiatory in such a movement.

The English and Scotch alienists, and neurologists, however, keep abreast with the advance of the science in other countries. The editors of great British journals like the *British Medical Journal*, the *London Lancet* and others are fully alive to these questions, and keep pace with scientific research. *The Journal of Mental Science and Brain* stand high in their respective domains.

#### FRANCE.

The position of Forensic Medicine in France is grati-

fyng. The labors of the Medico-Legal Society of France under the Presidency of EMILE HOURTELOUP, of the Paris Bar, have been valuable and gratifying. The death of JEAN TH. GALLARD, for a long time secretary of the French Society, and the selection of Dr. Motet as his successor, has been the most marked event in that Society. Many important papers have been read before that Society.

Among the French journals THE ARCHIVES DE NEUROLOGIE, LES ANNALES MEDICO PSYCHOLOGIQUE, L'ENCEPHALE, ANNALES D'MEDICINE LEGALE, and the new journal at Lyons, ARCHIVES D'ANTHROPOLOGIE CRIMINALE are the leading French journals in the various specialties. LE PROGRESS MEDICAL, LE REVUE DE MEDICINE, ARCHIVES OBSTETRIQUES and other journals have maintained their former high character and usefulness.

#### ITALY.

In no country has there been such extended labors as in Italy. The Societe di Freniatria has just published an extended volume as the result of its labors during the past year, under the able Presidency of Senator and Prof. ANDREA VERGA.

The Italian journals are in the front rank of the World in the various departments of NEUROLOGY, PSYCHIATRY, Forensic and State Medicine. Among the leading journals are LA PSICHIATRIA, LA NEUROPATHOLOGIA, conducted by Prof. G. BUONOMO and Dr. L. BIANCHI, La Revista Sperimentale de Medicina Legale, Revista Clinica de Bo-

logna, Archives de Psy-Scien Penali et Antropologia Criminale, Archives per Malattia Nervosa, Scienza Italiana, and many others.

#### GERMANY AND AUSTRIA,

and the German speaking countries. Forensic Medicine receives careful and thorough attention in the German universities. There is a chair of Forensic Medicine in each. There are many savants who devote their lives to the study and investigation of this science.

The work of such men as KRAFFT, EBING, THEO. MEYNERT, MORITZ BENEDICT, Prof. MASCHKA, Dr. H. LAEHR, Prof. VIRCHOW, Prof. HOFFMAN, K. KORNFELD, and hosts of others constantly enrich a literature of Forensic Medicine surpassed by none, and the journals keep pace with the progress of scientific research. The leading journals of Germany in the domain of Medical Jurisprudence are The Quarterly Journal of Medical Jurisprudence, at Berlin, M. Eulenberg, Editor, and Friedrich's Blatter of Legal Medicine, edited at Neuremburgh, both of which are in the front rank of journals of this kind in the world. The Jurbucher fur Psychiatrie, Zeitschrift fur Psychiatrie, Der Gerichtstaal are among the leading Journals in the German tongue.

#### BELGIUM

does its work in its societies by its scientific men. It has no Medico-Legal Society. The students of the science in Belgium are chiefly medical men.

The Belgium Bar have not as yet grasped the hands

of their great Physicians in a society common to both professions.

The leading BELGIAN SOCIETY is the Society of MENTAL MEDICINE, which includes the leading alienists of Belgium, and its Bulletin, registers and publishes its labors. It has no journal devoted to the science of Medical Jurisprudence.

#### HOLLAND

is in a similar condition, and in many respects is the counterpart of Belgium. The alienists of Holland are the only men who take much interest in the science, and the Netherlands have yet to organize a society which will combine the labors of the lawyers and medical men, as in France or our own country.

The Netherland Society of Psychiatrie is at present the foremost society in Holland so far as Mental Medicine goes, and embraces in its membership the leading Alienists of that country, it bears the same relation to Holland that the Society of Mental Medicine of Belgium does to that country.

#### RUSSIA

is devoting more study to the subject. Her great society is the Society of Psychiatry of St. Petersburg. She has no Medico-Legal Society. She has a very able body of Alienists. Prof. Mierzejewsky, is President of the Russian Society and editor of the Journal Archives of Psychiatry, Neurology and Legal Psychopathology, and Prof. Kowalewsky, editor of the Messenger of clinical and

Legal Psychology and Nervous Pathology of Kharkoff are among the foremost writers and thinkers among the Russian students of Forensic Medicine on the medical side, while George Dragondorf of Dorpat Russia is the foremost of the Russian Toxicologists.

We learn that a new journal has been established in St. Petersburg, Russia, devoted to Medico-Legal Science and Public Hygiene, edited by Dr. Schmullef, but we have not as yet seen a copy of this journal.

#### SCANDINAVIA.

Prof. Axel Key, editor of *Del Kongelige Sundheds Kollegiums etc.*, of Copenhagen, Denmark, is the leading exponent of Forensic Medicine in the Scandinavian countries, and his journal the highest authority there. A leading Journal is *Fordsand Svenska Lakare Salckaps*, at Stockholm in Sweden.

#### SPAIN AND PORTUGAL.

We do not know as much of Spain and Portugal in their relation to Forensic Medicine as we hope to.

Steps were taken to organize work on the science at Lisbon during the past year, which we shall watch with interest, and hope to hear of good fruits from the action. The science is not neglected in the Spanish universities, but there is no Society of Medical Jurisprudence in these countries that we are aware of.

#### CENTRAL AND SOUTH AMERICA.

We hope during the coming year to learn more of the



progress of Medical Jurisprudence in the Spanish speaking countries of the Western Hemisphere and the Islands, and to come into nearer and more intimate scientific relations with them. We do not believe that any Medico-Legal Society, common to lawyers and medical men, yet exists among them.

#### ORIGINAL PAPERS.

Members desiring to contribute papers should address the President. More are now offered than can be received, but that should not limit the number from which selections should be made. So far as possible preference will be given to members, but contributions from non-members are solicited, and must be conceded to be of great value, it is by calling for these contributions that cases occurring of interest come to our notice.

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### INTERNATIONAL CONGRESS OF MEDICAL JURISPRUDENCE.

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I think the time has now come when this Society should take the necessary steps to hold a Congress of Medical Jurisprudence, in the City of New York, either in the fall of 1888, or the spring of 1889, for a full and complete discussion of the more important subjects now uppermost.

To this Congress we should invite as our guests, to be entertained by our members, during its session of at least three days, representative men from all countries.



A Committee should at once be named, to agree upon the subjects of discussion, and to take the preliminary steps, to secure contributions and papers, from the most distinguished Medico-Legal Jurists who cannot attend in person, and to fix the date of the Congress. A committee should be named regarding proposed reforms in EXECUTION OF CRIMINALS now before our State Legislation.

Believing that this body, can do its best work through carefully selected Committees, I shall ask your authority to constitute them, for the various objects recommended if they meet with your favor.

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#### GENERAL RECOMMENDATIONS.

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Renewing the recommendations of my last inaugural address, as to the election of a State or National Chemist, under the pay of the Government, to be at the service of accused persons or the Government in criminal trials, and the establishment of the Morgue in this city on a scientific basis, after that of Paris, France, I congratulate the Society on its continued career of usefulness and prosperity, and shall hope to unite with officers and members, in the labors of another year, in that zealous spirit, for the advancement of the science, that has distinguished the previous labors of the body, and made the fame of the Society conspicuous, during its career of a little more than twenty years since its formation.

## SUICIDE AND LEGISLATION.\*

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By CLARK BELL, Esq.,

*President of the Medico-Legal Society of New York.*

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It is a question of moment, well worthy our serious consideration, to consider what steps can be taken to prevent death by suicide, or to decrease its volume; whether we view the movement as one to prevent the commission of crime, regarding it, as our laws always have done, as a criminal offense to take one's life† or to punish the offender for its commission.

Notwithstanding the philosophy and teachings of the Stoics and ancient philosophers, there are few countries or peoples who do not now regard suicide as a crime.

“*Mori licet cui vivere non placet*” was the motto of the Stoics, who claimed that every man had the right to dispose of himself as he pleased. Indeed, it was contended in that philosophy that when the ills of life became too great for endurance, or one became an object of danger, disgust, dread, or to save from dishonor, it was not only right, but duty, to take one's life.

The maxims of Montaigne were doubtless based on similar considerations.

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\* Read at the Session of October 24, 1882.

† IV. Blackstone's Commentaries, chap. 14, p. 189, I. Hawk, P. C. 68. I. Hal., P. C., 413.

“A voluntary death is the most beautiful.” “Life depends upon the will of others ; death upon our own.”\*

Among the Hindoos, Chinese, Japanese, and many savage tribes of men, suicide has been justified under certain conditions, and held up as a duty in others.

The death of Cato by his own hand was doubtless from his determination not to owe his life to Cæsar, whose power he would thus recognize, which he had not done before.†

The Cynics, as well as the Epicurean school of philosophers, justified suicide. Diogenes, and many of his illustrious disciples, died by their own hands.

The Epicureans taught that suicide was commendable, and a duty under certain circumstances ; but in ancient and modern times, the laws of most countries have branded suicide as a crime, and frequently punished it with great severity.

The Roman law punished the suicide with refusal of honorable burial.‡

Both Plato and Aristotle taught that punishment should follow the suicide, and he was also punished by confiscation of his goods in certain cases.§ While in Greece honors were refused the memory of the suicide, his name was made infamous, and the body refused the usual Grecian rites.|| By the Canon law the suicide was

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\* “ Essay Montaigne,” vol. 2, chap. 3.

† Plutarch. Cæsar’s Tusculan Disputations.]

‡ Laws B., ix.

§ Dig-de-re-Militari liv. iv., s. 7.

|| Potter, Greek Antiquities, B. IV. C. 1.

regarded as a criminal, forbidden the prayers of the Church, and punished with other severe penalties.\*

In France, from the earliest times, and in the middle ages, the influence of the Canon law was felt upon the legislative statute to punish suicide. Prior to the abrogation of these severe laws, in 1791, frightful penalties were visited on the bodies of suicides, and their goods were confiscated.†

In England, the Roman and Canon law both found exponents in the early English statutes. Under King Edgar, the suicide was refused Christian burial and his goods confiscated, unless insane or grievously sick. This statute is cited by Dr. O'Dea from the old Saxon law, in his able work on suicide (page 183).

The old English custom, of burying the body at cross-roads, pierced by a stake, was stopped by an Act of 4, George IV., c. 52, ordering their burial at night, between the hours of 9 and 12 o'clock.

These early English laws are not all abrogated. Many of them are still upon the statute books, but have fallen into general disuse, and may be regarded as obsolete.

In the present age, by general concurrence, it may be safely stated, that in all civilized countries suicide is regarded as a crime, because it is an offense against the laws regulating and ordering the general welfare of society. It has been well said that "obedience to the

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\* Law 12, Can. 23, quæst 4.

† Huryart de Vouglorns, pp. 183, 185. Serpillon Tome, II. p. 960. Loy-sell liv., VI., Title II., regel 28.

law is the highest duty of the citizen." Law is at the foundation of society, without which there is no permanence or safety to the individual. The guarantee of safety to citizens by society rests upon the law which upholds and supports it. Protection of human life is the corner-stone of all social organizations, and punishment for homicide must, in the nature of things, rest inherent in society under the laws regularly passed for the protection of the citizen. The suicide violates the social system by taking a human life, and strikes at the foundation upon which society rests. We cannot admit the legal right of suicide without at the same time consenting to the destruction of the elementary principles upon which society is based.

For the purposes of this discussion we must then inquire :

1st. Is suicide, as a social evil, on the increase ? and

2d. What can be best done by society to diminish its increase, either by legislation or otherwise ?

As to the first proposition : Is suicide upon the increase ? From 1794 until 1804, the yearly average suicides in Paris was stated by Brierre de Boismont at about a hundred and seven. There seems to be no reliable data prior to 1794, at which time the laws were changed. Dr. O'Dea, in his valuable and careful work on suicide, already quoted, states, however, upon the authority of M. de Foville, that during the period ending in 1837, and commencing in 1791, the proportion of suicides in France relative to the population had increased fifty per cent.,

and that from 1837 to 1847 this proportion had further advanced to the frightful extent of seventy-eight per cent.

The total suicides in France for the forty-five years, from 1831 to 1875, on the authority of M. Lacassagne, in *Precis de Medicine Juridicque*, and of M. E. Maret, in his work *Du Suicide en France*, were stated in the Medico-Legal International Congress, at the session of August, 1878, in Paris, by M. le Docteur Jeannel, at 173,232, the yearly average of which would be about 3,850. The annual number from 1831 to 1835 was 3,317, which had increased from 1871 to 1877 to the number of 6,107.

These statistics show, in France, a rapid and steady increase since 1831 in the annual number of suicides.

M. Jeannel states that these statistics are too low to embrace the entire number, for the reason that many suicides are never known to the public administration, and cites Esquirol as an authority that in his time many suicides were not known to the administration; also Brierre de Boismont, who insisted upon the impossibility of obtaining complete or perfect statistics of suicides in France at that period.

M. Lacassagne, who was present at the session of the International Congress at the time, stated, that he regarded the statistics presented by M. Jeannel as very exact.

He conceded that there was constant yearly increase in France in the number of suicides. He also stated that Paris, probably of all the cities of the world, furnished



the largest number in proportion to its population, and that, while this was true of Paris, it was not true of that part of France outside the larger cities. He stated that suicides in France, in the country districts, were exceedingly rare. It is more difficult to give reliable statistics for England. Quetelet gave this subject attention from the commencement of the present century, and came to the conclusion that there was a remarkable uniformity in the annual number of suicides, if considered in groups of ten or twenty years, and that while it varied in exceptional years, the grouping of periods of ten or twenty years was quite uniform. In London the annual suicides about the year 1850 ranged from 213 to 266, while the average for groups of successive years was 240.

Dr. O'Dea in his work quotes Quetelet and states the present annual rate in London at about 260, when estimated in a succession of years.

All statistics and all experience show that exceptional years and causes produce exceptional results.

#### EPIDEMICAL SUICIDE.

There is frequently an epidemic of suicides in a district. Notably, the Egyptian epidemic, caused by Hegesias' orations; the Milesian; the epidemic of Manfred, in 1679; Rouen, in 1806; St. Piermont Jean, in 1813; Etampes, Lyons and Versailles, the latter of which, in 1793, numbered some 1,300 victims.

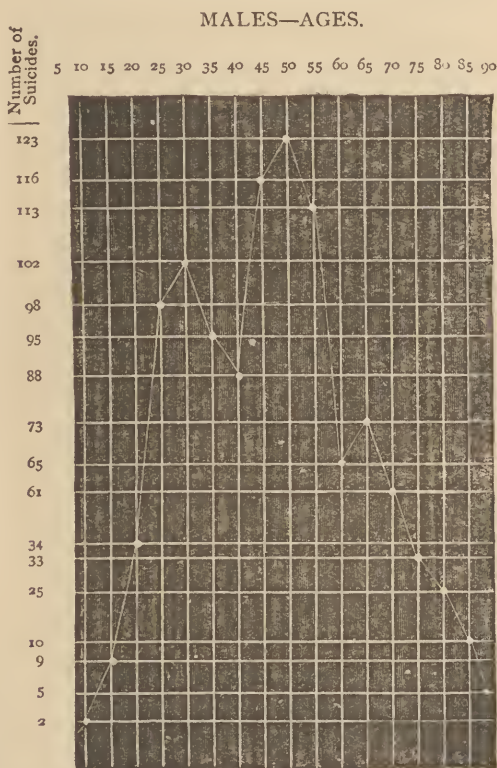
A great number of suicides were committed in June, 1697, at Hansfield.\*

\* Sydenham Collection, vol. 2.



It is well known that wherever a suicide is committed by precipitation from a monument or height, it is frequently followed by several others, as from Notre Dame, Colonne Vendome or Colonne Bastille.\*

Niagara Falls, in our country, is a parallel, though not



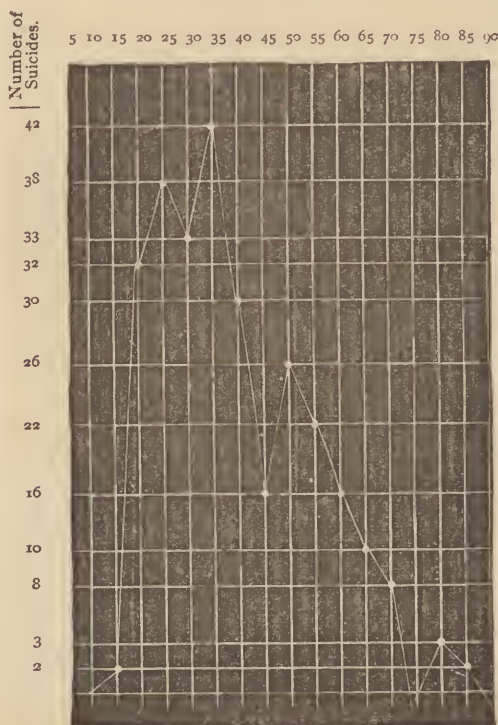
Compiled from the U. S. Census of 1870.

\* Briere de Boismont, *ouv-cit.*, p. 141.

completely, as it is more difficult of access to the great masses by reason of its distance from our large cities.

The pensioner who hung himself on one of the lanterns

FEMALES—AGES.



Compiled from the U. S. Census of 1870.

of the Hotel des Invalides in Paris, was followed within a few weeks by twelve others, hung at the same place, which was only stopped by removing the lantern.

In Cuba, the negroes committed suicide in large numbers, under a religious delusion, believing that they

# AGES.

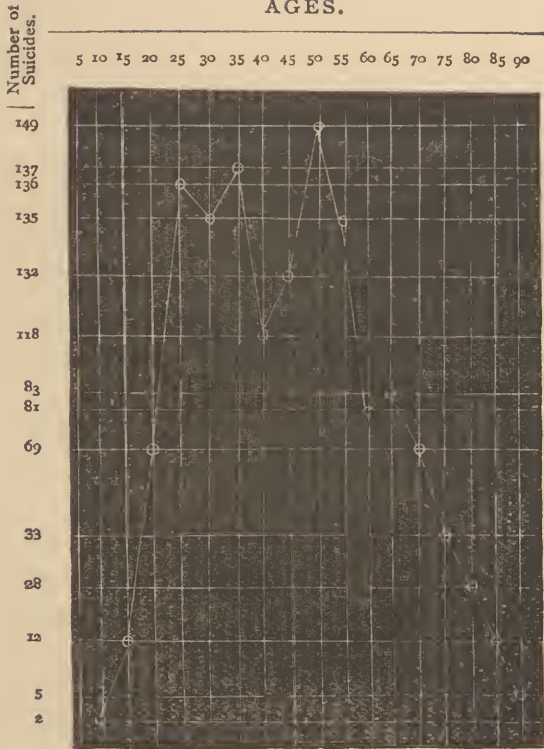
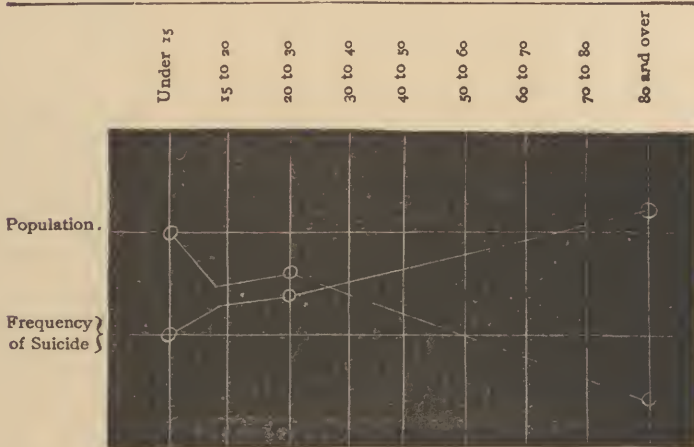


CHART I.—Suicides and Age. Both Sexes. Compiled from the U. S. Census of 1870.

# AGES.



would be restored to life at the end of three days. It was only suppressed by the Governor-General ordering the heads exposed in public for one month, their bodies burned and their ashes publicly scattered to the winds.\*

The foregoing tables show that the largest number of suicides occur between the ages of twenty-five and fifty-five.†

O'Dea submits an interesting diagram or chart, comparing suicides at various ages with corresponding totals of living persons.‡

The following table, quoted by the same author, from the *Medico-Chirurgical Review*, vol. 27, p. 211, shows the proportion of suicides to the entire number of persons at the different periods of life :

YEARS.	SUICIDES.	POPULATION.
10 to 15.....	12	50,000
16 " 20.....	38	71,000
21 " 25.....	63	73,000
26 " 30.....	67	70,000
31 " 40.....	107	117,000
41 " 50.....	115	91,000
51 " 60.....	85	74,000
61 " 70.....	41	51,000
71 " 80.....	14	20,000
81 " 90.....	2	4,000

From 1858 to 1864 the number of deaths were :

AGES.	MALES.	FEMALES.
All ages.....	6,754	2,462
5 years.....	5	1
10 years.....	32	19
15 years.....	545	435
25 years.....	886	373
35 years.....	1,294	428
45 years.....	1,540	532
55 years.....	1,474	374
65 years.....	759	222
75 years.....	198	66
85 years.....	21	22

\* Revue de Paris, 19 April, 1845.

† P. 140, O'Dea on Suicides.

‡ O'Dea on Suicides, p. 141.

1858 to 1864. AGES.	Average annual death rate of males to 1,000,000 living at each age.	Average annual death rate of females to 1,000,000 living at each age.
	MALES.	FEMALES.
All ages.....	98.4.....	34.1
5 years.....	0.....	.1
10 years.....	4.3.....	2.6
15 years ..	46.6 ..	32.8
25 years ..	90.7.....	33.5
35 years.....	166.7 ..	49.1
45 years.....	249.1.....	85.0
55 years.....	362.3.....	92.0
65 years.....	374.5.....	81.8
75 years.....	261.1.....	70.0
85 years.....	238.4 ..	87.2

From these tables Dr. O'Dea finds the following conclusions :

1. Suicides increase in number until extreme old age (limited in England after seventy-five years).

2. The increase is in direct ratio to population until the age of thirty, after which it continues in inverse ratio to population until the allotted time of life.

3. The number of suicides is very small, both absolutely and relatively, to population previous to the age of fifteen.

#### SEX.

The influence of sex on suicide Dr. O'Dea shows by similar charts based upon the census of 1870, which place the maximum between the twentieth and fortieth year. Women commit suicide earlier in life ; men, later. The proportion of the sexes is in general three men to one woman, except in England and Wales the ratio is two to one, and in Denmark four to one. In large cities the proportion is nearer equal. This author quotes two tables computed from "*Lisle, du Suicide*," pp. 105, 106,

which are interesting by way of comparison as to causes of suicide in females, bearing upon the question of proportion between the sexes.\*

CAUSES OF SUICIDE.	MEN.	WOMEN.	TOTAL.
Grief caused by loss of parents, etc.....	373	193	566
Grief caused by ingratitude of children....	173	74	247
Grief caused by departure of children.....	20	20	40
Grief caused by separation of family.....	35	16	51
Forbidden love.....	938	627	1,565
Jealousy between married couples and between lovers.....	53	118	171
Grief at quitting master or a house.....	229	24	293

The difference between the sexes in indulgence of propensity or passion by the following table :

CAUSES.	MEN.	WOMEN.	TOTAL.
Gambling .....	157	1	158
Laziness .....	76	4	80
Debauchery .....	1,569	223	1,792
Drunkenness.....	2,761	441	3,202

Upon the question of suicides for the cause of  
INSANITY,  
the following table, computed from the census of 1870,  
is made up by Dr. O'Dea :

STATES SHOWING THE LARGEST INSANITY RATES.	Ratio to 100,000 population, U. S. Census, 1870.	
	INSANE.	SUICIDES.
California.....	14.493	196.9
Maine.....	4.625	126.4
Massachusetts.....	7.200	182.6
New Hampshire .....	7.854	172.1
Vermont.....	7.000	218.1

\* O'Dea on Suicide, pp. 153, et seq.



Being States showing the largest insanity rates, in which Vermont leads.

The States showing the lesser rates are :

STATES.	Ratio to 100,000 population, U. S. Census, 1870.	
	SUICIDES.	INSANE.
Delaware .....	2.399	52.0
Georgia .....	1.182	53.5
Indiana .....	3.154	89.4
Louisiana .....	2.063	62.0
Tennessee. ....	1.517	73.5

A general table from the census of 1870 is given under the head of Table of Suicide and Social Condition in the United States. A close examination of these tables shows no uniform rate or proportion between suicide and insanity. The difference is inexplicable by any known law.

Connecticut, with a suicide rate of .907, has an insanity rate of 143.05, while Rhode Island, with a suicide rate of 2.760, has an insanity rate of 143.0.

Dr. O'Dea thinks that the causes which tend to increase insanity also tend to increase suicide.

About 30 per cent. of insane are believed to be melancholic.\*

Dr. John P. Gray thinks that about 35 per cent. of melancholic insane develop suicidal tendencies.†

The relation in Europe of the proportion of insane to the whole number of suicides is about one-third.‡

\*Penn. Hospital Reports for Insane, 1860 to 1870.

†Suicide, *Journal of Insanity*, July, 1878.

‡Von Ettingen's Moral Statistics and Christian Manners.



I am unable to find any American statistics on this subject.

#### EDUCATION.

MM. Bronc and DeLisle, French writers, who have given this subject careful study, unite in the opinion that the diffusion of education and general intelligence increase the rate of suicides in France. That department of France which is first in intelligence (Department du Nord) has the largest proportion of suicides. In this department 50 per cent. of all the suicides of France

SUICIDES NUMEROUS.			SUICIDES FEW.		
Departments.	Suicides.	Illustrated 100,000 pop.	Departments.	Suicides.	Illustrated 100,000 pop.
Seine .....	806	70	Corse .....	6	31.4
Nord ..	155	29.5	Lozère .....	7	32.4
Seine-et-Oise .....	155	7.9	Hautes-Pyrénées .....	9	11.8
Seine-et-Inférieure .....	151	29.1	Cantal ..	9	25.2
Aisne .....	129	19.1	Hautes-Loire .....	9	43.5
Oise .....	127	14.4	Priège .....	10	66.6
Marne .....	125		Pyrénées-Orientales .....	10	41.6
Seine-et-Marne .....	114	10.9	Haute Savoie .....	11	15.8

occur. The Department of the East is next with 16 per cent., while of the remaining departments the three, Center, South and West, where education is lowest, the rate is only 34 per cent. between them. The influence of Paris as a city, however, where the rate is so high, weakens the force of M. Bronc's opinion to some extent. The following table from M. Bronc's book will be of interest.\*

\*" L'Europe, Politique and Social." Paris, 1869, p. 206, et seq.

## NATION AND RACE.

The tables of M. Bronc's, bearing on other questions, are equally interesting and valuable. Deaths from suicide in 1876, in each of the named countries :

COUNTRIES.	Proportion of suicides to 1,000,000 pop.	Degree of Education. Percentage of Illiteracy.
Switzerland.....	196	Nearly free from illiteracy.
England and Wales .....	73	33.
Scotland .....	37	21.
Ireland .....	21	46.
Norway.....	70	Nearly free from illiteracy.
Finland.....	34	" " "
Sweden.....	92	" " "
Prussia.....	134	" " "
Bavaria.....	103	7.
Belgium.....	82	30.
Austria.....	113	49.
Italy.....	37	73.
United States.....	40	20.

These tables of M. Bronc do not accord with our experience in the United States respecting ignorance and crime, nor are they in accord with the better opinion in this country as to the relation of illiteracy to crime so far as we can estimate.\*

It may be of interest to inquire concerning the causes of suicides, and I submit a few statistical facts concerning them.

## DOMESTIC TROUBLES.

It will be observed that France and Italy have a higher rate of suicide from domestic troubles than other countries. I quote a table : †

\*Prisons and Reformatories, Home and Abroad. London, 1882. Kidder & Schem, Op. Cit. Arb. Criminal Education. O'Dea on Suicide, 167.

†Compiled by O'Dea from the Belgian Statistics published in 1. Europe of Brussels. O'Dea, Suicide, 177.

COUNTRIES.	Proportion of suicides to sex to 1,000 cases, from domestic troubles.	
	MALES	FEMALES.
Sweden.....	138	164
France.....	75	76
Italy.....	48	51
Prussia.....	26	29
Saxony.....	21	18
Norway.....	16	24

## DRUNKENNESS.

Different countries show a wide difference in rate as to this cause of suicide. In Denmark it is stated to be nearly forty per cent. Nearly the same proportion is claimed for Norway and Sweden. In Italy, on the contrary, only six out of every 1,000 can be attributed to this cause. It is estimated that at least seven per cent. of suicides are due to drunkenness, which I think rather too low.\*

This author furnishes an interesting table, compiled from the census of 1870, contrasting suicides and deaths by alcohol in this country.

## SUICIDES—DEATHS BY ALCOHOL IN THE UNITED STATES.

	Suicides.	Deaths from Alcohol.
Chinese and Japanese.....	10	
Other South of Europe.....	13	5
Italians.....	1	3
Other North of Europe . . . . .	7	3
French.....	19	12
Scotch.....	10	22
English and Welsh.....	42	57
Irish.....	104	488
Swedes, Norwegians and Danes.....	22	5
Germans.....	146	144
All others.....	16	12
Total.....	390	751
Indian.....	1	1
Colored.....	18	61
White.....	313	535
Total.....	332	597
Unknown.....	21	62
Aggregate.....	1,243	1,410

\*O'Dea, Suicide, p. 184.

## NATIONALITY.

The difference in rate in different countries is remarkable, and while various writers account for it in various ways, there is really no satisfactory explanation. Moreover, different cities in the same country will have a widely different rate. In England the rate is highest in the southeastern counties and lowest on the western coast.\* France shows the same phenomena as before stated.

In our own country the proportion of suicides in San Francisco, and in the cities of Nevada, is very largely in excess of New York, Brooklyn or Philadelphia. The following table from the work of Dr. O'Dea gives the general ratio as to race and nationality : †

NATIONS.	No. of suicides in 1,000,000 pop.	NATIONS.	No. of suicides in 1,000,000 pop.
Portugal.....	7	Belgium .....	55
Spain .....	14	Austria Cisleithania .....	84
Ireland.....	16	Bavaria .....	73
Russia.....	25	Baden .....	109
Italy .....	26	France .....	110
Finland .....	30	Prussia.....	123
Scotland... ..	35	Wurtemberg .....	164
United States.....	40	Switzerland .....	206
Eng. and Wales...	68	Denmark.....	288
Norway .....	94	Saxony.....	251
Sweden.....	66		

The study of the causes that make the rate so greatly in excess in Switzerland, France and the German-speaking countries, is very interesting, but I have not space for it in this paper. The largest number of suicides in

\*Report of English Register-General for 1873.

†Table of Dr. O'Dea, Suicide, p. 199.

London in any one year was in 1846, during the great railroad panic, and the per cent. rose from 7.2 per cent. to 12.8 in the 100,000 population in France in 1847.

The vital statistics of Ireland show an increase of suicides from 7.57 to 8.41 in the decade that witnessed the great famine in that country.\*

The statistics of Quetelet, to which allusion has been made, are analyzed and formulated by O'Dea, pp. 113, 140 and 141.

#### GENERAL CAUSES.

Brierre de Boismont gives the following table, made from a study of 4,595 cases of suicide (pp. 261 etc.).

Tables of Brierre de Boismont, from authentic documents of the causes of suicide, selected and analyzed from 4,595 cases :

CAUSES OF SUICIDE IN ITALY.	NUMBER OF SUICIDES.						Per 1,000 Suicides	
	1876.			1877.			1877.	
	Total	Males	F'm'les	Total	Males	F'm'l's	Males	Females.
Unhappiness.....	64	58	6	105	92	13	100.55	58.04
Loss of employment..	7	7		2	2		2.19	
Reverses of fortune...	141	136	5	104	102	2	111.47	8.93
Domestic trouble.....	93	73	20	88	68	20	74.32	89.29
Hindered love.....	47	33	14	36	19	17	20.76	75.89
Disgust of m'lty s'rvce	7	7		8	8		8.74	
Disgust of life.....	26	23	3	28	27	1	29.51	4.46
Fear of condemnation.	21	21		24	24		26.23	
Jealousy .....	5	4	1	6	5	1	5.46	4.46
False point of honor..	7	7		11	11		12.02	
Ante-nuptial pregnancy.	6		6	4		4		17.86
Drunkenness.....	7	6	1	6	6		6.56	
Physical suffering....	59	51	8	79	64	15	69.95	66.96
Cerebral fever.....	5	4	1	7	4	3	4.37	13.39
Insanity, delirium....	127	89	38	136	95	41	103.83	183.04
Monomania .....	18	12	6	24	15	9	16.39	40.18
Pellagra.....	55	38	17	121	77	44	84.15	196.43
Idiocy, imbecility....	8	7	1	12	9	3	9.84	13.39
Unknown.....	321	278	43	338	287	51	313.66	227.68
Total	1,024	854	170	1,139	915	244	100,000	100,000

\*O'Dea, Suicide, p. 277.

FIRST GROUP.		
Drunkenness.....	530	
Poverty, Misery.....	282	
Reverses from financial embarrassment.....	277	
Licentiousness.....	121	
Laziness.....	56	
Want of Work.....	43	1,309
SECOND GROUP.		
Insanity.....	652	
Ennui—disgust of life.....	237	
Feebleness—sorrow, melancholy.....	145	
Acute delirium.....	55	1,089
THIRD GROUP.		
Domestic troubles.....	361	
Other troubles.....	311	672
FOURTH GROUP.		
Sickness.....	405	405
FIFTH GROUP.		
Love.....	306	
Jealousy.....	54	360
SIXTH GROUP.		
Remorse, dishonor, criminal prosecution.....	134	134
SEVENTH GROUP.		
Gambling.....	44	44
EIGHTH GROUP.		
Pride and vanity.....	44	44
NINTH GROUP.		
Unknown motives.....	556	556
Total.....		4,613

And as a further analysis of causes, I give another table from this same author.\*

TABLE OF ANALYSIS OF 676 CASES OF SUICIDE.

Bade adieu to parents, friends and the world.....	278
Gave directions as to funeral and burial.....	105
Asked pardon for their suicide.....	45
Evinced solicitude for parents or children.....	43
Had confidence in Divine forgiveness.....	36
Expressed regret at leaving world, friends, etc.....	38
Avowed belief in a future state.....	22
Died in houses of ill-fame.....	18
Expiated faults or asked forgiveness.....	30
Desired the prayers of the Church.....	11
Prayed friends to shed tears to their memory.....	11
Ascribed their death to useless motives.....	11
Expressed horror at their own death.....	9
Wished their death concealed for sake of family.....	19

\*Brierre de Boismont, *Suicides*, p. 262.



2. As to the second proposition or inquiry, viz.: "What can best be done by society to diminish the increase of suicide, by legislation or otherwise?" Whether suicide is on the increase or not, is of sufficient consequence to justify us in studying whether and how far the evil may be avoided, and what legal or punitive measures for its repression or punishment can be adopted. How far can such measures act as a restraint upon mankind to prevent suicide? What restraining influences can be used or adopted, the tendencies of which will be to diminish the volume of suicide? But little doubt can be entertained that the extreme laws of the Romans, Greeks, and the earlier laws of France and Great Britain, barbarous as they may now seem, must have operated largely to deter many from the commission of this crime.

It is, of course, quite impossible to know how many have been thus deterred. Those who were thus prevented in the nature of things can neither be counted, nor with certainty be calculated. One means of forming an opinion is by comparing recent suicides, in proportion to the population, with other times; and the better opinion is that those laws must have exercised a decided and beneficial restraint.

Buckle and Comte both concur in the unwisdom of legal enactments against suicide.\*

The verdict of history must, however, be on the other side, and tend decidedly to show the beneficial effects of punitive laws, when strictly enforced.†

\*Civilization, vol. 1, pp 19, 20; *Traite de Legislation*, vol. 1, p. 486.

†O'Dea on Suicide, p. 278, who cites also Tarquin's proclamation to the Roman army. The edict of the Milesian authorities. The famous order of Napoleon I. to his army, which stopped what might otherwise have been a serious epidemic among the French soldiers.



It is most reasonable to suppose that the certainty of loss of goods, disgrace to family, and indignities to the remains, would have deterred many weak or vain persons, who have committed suicide in the past, with no possibility of such results attaching if punitive laws had existed and been enforced. Besides the cases cited where orders, regulations and laws have clearly operated to arrest suicides in epidemical periods, I have felt it important to cite the effect of legislation in British India to suppress that system of suicide formerly so prevalent there, and known as

## SUTTEE.

Following is a copy of the official returns of suttee in India, from 1815 to and including 1828 :

DIVISIONS.	1815.	1816.	1817.	1818.	1819.	1820.	1821.	1822.	1823.	1824.	1825.	1826.	1827.	1828
Calcutta.....	253	289	442	544	421	370	372	328	340	373	398	324	337	308
Dacca.....	31	24	52	58	55	51	52	45	40	40	101	65	49	47
Murshedabada.	11	22	42	30	25	21	12	22	13	14	21	8	9	10
Ratna.....	20	29	49	57	40	62	69	70	49	42	47	65	55	55
Benares.....	48	65	103	137	92	103	114	102	121	93	55	48	49	33
Barielly.....	15	13	19	13	17	20	15	16	12	10	17	8	18	10
	378	442	707	839	650	627	634	583	575	572	639	518	517	463

This practice was suppressed in Southern India by Lord William Bentwink declaring it a crime punishable by the Criminal Court.\*

All India was freed by similar laws and regulations adopted by the British generals, which have effectually suppressed the practice.

What would be the effects, if the unsuccessful attempt

\* Wheeler's History of India, vol. 3, p. 273. O'Dea Suicide, 306.

at suicide was punished by law as a crime in all cases, and a conspicuous example made of the offender? Would it not operate as a wholesome restraint, in some cases at least, against the commission of the act?

#### LEGISLATION PROPOSED IN FRANCE.

The most striking proposition of recent times is that submitted by M. le Dr. Jeannel, to the International Medico-Legal Congress, at the Paris session of August, 1878, to provide by law, that the corpses of all suicides be furnished to the medical schools for dissection, except in such cases as the victims were insane or irresponsible. By the Penal Code of France, Art. 64, it is provided, that suicide is not a crime when committed by a person who is insane at the time, "*en état de démence au temps de l'action.*" Dr. Jeannel supported his proposition by a strong array of facts, and claimed :

1. That such a law would increase the resources of the medical schools, for careful and valuable anatomical studies, etc.

2. Seriously diminish the number of suicides. He proposed the following points for the consideration of the Congress :

1. Each particular case of suicide should be given to a Medico-Legal determination or Commission (*une consultation Medico-Legale*) to determine as well the fact of the suicide as the sanity of the victim.

2. The passage of a general law requiring that the body of every suicide who was found to be sane and

responsible for his acts should be sent to the medical college (*Amphitheatres Anatomique*).

It was objected by M. Lacassagne that it would be very difficult to execute such a law as Dr. Jeannel proposed. He alluded to the difficulty of transporting dead bodies to the anatomical schools, especially from a distance, and also to those persons who from religious scruples oppose the dissection of bodies at all in the hospitals or anatomical schools. He also thought that a very strong feeling of opposition would arise on the part of the families and friends of suicides to such a disposition of the remains.

M. Gubler took part in the discussion and opposed the proposition, claiming that such a law would aggravate the situation of families so unfortunate as to have a suicide occur in their midst, and that it would be another evil for them to bear, added to the shame and disgrace of the act itself. He feared also that instead of increasing the anatomical subjects, it would create a feeling against the schools, which would in the end operate to diminish the number of subjects to be obtained.

M. Devergie, who presided at the session of the International Congress, expressed a doubt whether the Legislature would consent to deprive a family of its rights to dispose of the remains of one of its members who had committed suicide.

No action was taken by the Congress upon M. Jeannel's proposition.

The objections thus presented were considered by Dr.

Jeannel, in a reply submitted as annex No. 2, which forms a part of the published proceedings of that Congress, and in which the questions involved are treated with signal ability.

To the objection as to the transportation of the dead bodies, he submits that the experience of the commission of the French Society of Medical Jurisprudence had demonstrated the entire feasibility of transporting dead bodies, and perfectly retarding putrefaction by the use of phenic acid, and gives the formula which perfectly embalms the body at a cost of five or six francs, which was then in actual use throughout France between the various prisons and medical schools.\*

Dr. Jeannel meets the objections raised with powerful arguments. He demonstrates the right of the Legislature to pass such a law, and argues that it would not only have a beneficial result as a restraint upon suicide, but sensibly aid the schools in their labors.

While it must be conceded that families would at first object to such a disposition of the bodies of suicides, it is upon a solid and safe principle that such a law would be founded if the Legislature should pass it. The bodies of murderers or criminals, if furnished for dissection to the medical schools, present quite the same question, whether the criminal is a suicide or a murderer of some one beside himself.

The consequence upon the family is one of the real

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\* *Poudre Antiseptique de Wafflard. Acide Phenique brut.*, 1. *Seiure de bois*, 4.

arguments for the passage of such a law, because the suicide, if sane, must consider all the consequences of his act, and this must operate in many cases as an enormously powerful restraint against the commission of the crime.

No valid legal objection could be raised by the family in the case of a suicide, that could not be raised if a member convicted or accused of any other crime should die pending trial, or after conviction while in prison.

No question of this character had force against the ancient punitive laws.

What is needed is additional force upon the moral sense of the community, to render the crime of suicide more generally odious and detestable.

There is at present practically no legal restraint against suicide.

The suicide has nothing to fear for his crime, even if unsuccessful. Our laws are not enforced.

Is society doing its whole duty in the matter? Should not such legislation be considered as would be calculated to arrest the hand of weak persons, who now really encounter no resistance to their suicidal ideas and tendencies, by legislation or public sentiment?

Of course, laws of all countries recognize insanity as a defence to crime. Suicide is within that rule. No insane or irresponsible person can be held responsible for suicide.

Dr. O'Dea admirably suggests the great value and importance of religious and moral training, as an important

factor in preventing suicide. He most ably supports this, as well as the value of medical advice and treatment, as a means of prevention, in the closing chapters of his work.

These should not be neglected. They should be studied and made use of to the fullest extent. But can we rely alone upon these means as a preventative ?

The question is one of great importance and worthy serious study. Dr. O'Dea has dedicated his work : "To the Medico-Legal Society of New York, whose successful efforts at medical, legal and social reform reflect honor on itself and lasting benefit on the community."

This work has been of great value in the preparation of this article, and while the author only touches lightly on the legal means of prevention, the weight of the book favors sound action, if public opinion would be behind proper remedial legislation, without which no important reform can be accomplished by legal means. If this Society can be useful in awakening public interest in such remedial legislation as would save the lives of even a few unfortunates who would otherwise perish by their own hand, it would, I feel quite sure, be doing good work in thus acting. If it can be instrumental in bringing into force and play any elements within the commonwealth that shall so intensify and make odious this growing crime of suicide, it ought not to hesitate long in its action.

The consideration of the feelings and wishes of the family and friends of the suicide, we must all feel



sensibly ; but higher and broader and nobler than these is the great good to the State, the public conscience and the heart.

I am not aware what action has been taken by the French Society upon this question, or whether any action has been taken, but I have thought it not inconsistent with my duty to bring the subject to the thoughtful attention of the Medico-Legal Society of New York.

## APPENDIX.

Suicides in the United States and Territories at the Tenth Census :

STATES AND TERRITORIES.	SUICIDES.	STATES AND TERRITORIES.	SUICIDES.
Alabama .....	10	Missouri .....	99
Arizona .....	8	Montana .....	13
Arkansas .....	14	Nebraska .....	13
California .....	188	Nevada .....	13
Colorado .....	12	New Hampshire .....	31
Connecticut .....	4 <sup>c</sup>	New Jersey .....	67
Dakota .....	7	New Mexico .....	3
Delaware .....	1	New York .....	332
District of Columbia .....	13	North Carolina .....	20
Florida .....	1	Ohio .....	191
Georgia .....	28	Oregon .....	26
Idaho .....	3	Pennsylvania .....	219
Illinois .....	171	Rhode Island .....	10
Indiana .....	115	South Carolina .....	16
Iowa .....	178	Tennessee .....	39
Kansas .....	43	Texas .....	65
Kentucky .....	64	Utah .....	4
Louisiana .....	34	Vermont .....	22
Maine .....	49	Virginia .....	23
Maryland .....	33	Washington Territory .....	9
Massachusetts .....	14	West Virginia .....	14
Michigan .....	101	Wisconsin .....	76
Minnesota .....	49	Wyoming .....	1
Mississippi .....	15		
Total—United States .....			2,517

Since reading this paper, I have seen some statistics



prepared by Dr. John T. Nagle, of suicides in the city of New York for the eleven years ending December 31, 1880, also the proportion of suicides to the population of New York City from the year 1804 to 1880, inclusive, from which I make some interesting extracts.

Dr. Nagle claims that :

1. There is a marked difference in the number of suicides, based on nationality, the Germans especially exceeding the Irish in number.

2. That as to sex, the males exceed the females in number, during past eleven years, by males, 1193 ; females, 328. The proportion being 3.64 males to one female.

3. The highest rates of suicides in New York City during the past seventy-seven years was in 1805, when there was one to every 3,017 inhabitants; and the lowest in 1864, when the rate was 1 suicide to 23,827. In 1874 the rate was one to 5,515, and was the largest year since 1834, when the proportion was 1 to 3,474.

The maximum among males was between the ages of 35 and 40 years, and of females between 30 and 35 years.

4. The age and sex of suicides in New York for the eleven years ending December 31, 1880, was :

Males.....	1,193
Females.....	328
<hr/>	
Total for eleven years.....	1,521
Average for each year.....	138. $\frac{2}{10}$ %

Dr. Nagle has classified these deaths, to see whether time of year influences suicide, into four quarters of

the year and for the eleven years, with the following result :

First quarter.....	341
Second quarter.....	417
Third quarter.....	412
Fourth quarter.....	351

He states that these relations vary in different years. He states that the average annual rate of suicide for the eleven years was 16.74 to every 100,000 of the native population.

During the same period the rate was for foreign born population 26.24 to every 100,000. It was less frequent among the colored than the white population.

The table of nationalities is interesting, the Belgian heading the list and the Irish of foreigners being the lowest, viz.:

Austria.....	20.54	Portugal.....	96.77
British America.....	27.28	Russia.....	12.80
Bohemia.....	29.65	Scotland.....	23.84
China.....	57.32	South America.....	92.15
Denmark.....	56.39	Sweden.....	39.04
England.....	27.08	Switzerland.....	77.09
France.....	45.27	Spain.....	56.92
Germany.....	34.49	Wales.....	13.49
Holland.....	47.13	Cuba.....	43.53
Italy.....	13.98	Belgium.....	115.06
Norway.....	51.23	Ireland.....	9.71
Poland.....	18.76	United States.....	5.61

The data as to Belgium is more curious than reliable, as the total Belgian population for the eleven years was only 478, and the number of suicides six.

In the table of causes, 503, or really one-third of the whole number, was by poison, of which Paris green was the favorite, causing 200 deaths, and various forms of opium, 139 deaths. Pistol, gun-shot wounds caused 399

deaths, hanging 239, cutting throats or arteries with razors and knives, 175, leaping from heights 82, and drowning 101.

There are interesting tables in Dr. Nagle's paper, in regard to foreign cities and American cities, for which I regret that I have no space. Dr. Nagle's tables are especially valuable, for the reason that he has the benefit of the State Census of 1875 ; while all the tables I have hitherto seen were based upon the U. S. Census of 1870. I am indebted to the Commissioner of Patents for the first table in appendix, based on the census of 1880, which his courtesy has enabled me to furnish since my paper was read.

STATE.	No. of Suicides.	POP- ULATION.	Per cent. of Suic- ides to 100,000 Pop.	Percent- age of Illit- eracy in 100,000 Pop.	Population Sq. Mile.	Prevailing Industry.	Prevailing Religious Belief.	Church Accom- modation.	Per cent. of each 100,000 Pop.
Alabama	8	908,982	.892	73.499	19.66	Agriculture	Method. and Bapt.	Good	55.7
Arkansas	4	484,471	.835	50.493	9.30	Mining & Agri.	" and Catholic	Very deficient	33.3
California	84	589,091	14.387	9.723	9.30	Manufacturing	Congregational	Good	196.9
Connecticut	21	537,454	3.900	9.172	113.15	Agriculture	Methodist	Good	143.5
Delaware	3	128,015	.718	33.961	58.97	"	Method and Bapt.	Very deficient	15.3
Florida	7	183,248	3.718	73.320	3.17	"	Methodist	Good	53.5
Georgia	14	1,184,100	1.182	74.921	20.42	"	"	Deficient	64.0
Illinois	106	2,530,891	4.173	12.650	45.84	"	"	Good	89.4
Indiana	43	1,680,637	2.556	12.124	49.71	"	Meth. and Presbyter.	Very deficient	62.1
Iowa	26	1,194,320	3.154	5.843	21.69	"	Method. and Bapt.	Good	94.2
Kansas	15	373,299	4.002	10.367	4.48	"	Congr. Method. Bapt.	Good	126.4
Kentucky	23	1,321,011	1.741	44.038	35.33	"	Method. and Bapt.	Very deficient	62.0
Louisiana	25	724,915	2.653	73.378	17.91	Man'g & Agri.	Method. Bapt.	Good	94.0
Maine	19	624,915	4.625	5.190	70.20	"	Congregational	"	182.6
Maryland	13	780,894	1.665	31.963	186.84	"	Methodist	Very deficient	69.0
Massachusetts	105	1,457,351	7.290	11.849	90.79	Agriculture	Catholic	Good	29.5
Michigan	83	1,187,231	2.780	7.300	5.26	"	Method. and Bapt.	Very deficient	73.4
Minnesota	7	446,056	1.559	8.329	17.56	"	Cath. Meth. Bapt.	"	21.6
Mississippi	12	827,922	1.448	73.072	26.34	"	"	"	3.4
Missouri	54	1,221,295	3.137	21.438	1.62	"	Cath. Method. Bapt.	Good	172.1
Nebraska	8	120,322	6.186	5.618	0.4	"	Method. and Presby.	Deficient	145.0
Nevada	5	48,711	8.516	3.283	0.4	"	Method. and Bapt.	Good	72.7
New Hampshire	25	318,300	7.854	5.512	34.90	Mining	Methodist	Deficient	128.0
New Jersey	21	906,096	2.306	10.114	108.91	Man'g & Agri.	Various dissenting	Good	111.0
New York	234	4,387,464	5.333	9.203	93.25	Manufacturing	Baptist	"	47.1
North Carolina	10	1,071,371	.933	68.836	21.13	" & Commerce	Method. Bapt. Pres.	Very deficient	73.5
Ohio	96	2,662,290	3.600	9.976	66.69	Agriculture	Cong. Method. Bapt.	Good	218.1
Oregon	4	207,833	3.925	6.906	0.95	"	Method. Bapt.	"	91.8
Pennsylvania	125	3,322,050	3.549	10.053	76.56	Manufacturing	Catholic, Methodist	Very deficient	84.6
Rhode Island	6	217,353	2.760	17.178	166.43	"	Method. Bapt.	"	79.4
South Carolina	5	705,005	.708	78.834	90.75	Agriculture	Method. Bapt. Pres.	"	
Tennessee	19	1,253,520	1.517	52.065	2.98	"	Cong. Method. Bapt.	Good	
Texas	28	818,899	3.418	50.294	32.37	"	Method. Bapt.	"	
Vermont	25	330,551	7.563	9.951	31.95	"	"	"	
Virginia	16	1,225,163	1.360	68.301	19.22	"	"	"	
West Virginia	11	443,014	2.500	29.477	19.56	"	"	"	
Wisconsin	26	1,064,985	2.4	8.495		"	Catholic, Methodist	Very deficient	













## JOHN CONNOLLY.

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DR. JOHN CONNOLLY, who may be truly said, to have been the father of the non-restraint system of treatment of the insane, was born at Market Rasen in Lincolnshire, in 1794, and was of Irish descent. His mother, upon whom the care of the young family fell, on the early death of her husband, married a French gentleman who had much to do with the education and moulding the literary tastes of young Connolly. At eighteen he entered the militia, serving as an officer, and in 1816 he married the daughter of Sir John Collins, and went to France to reside. In 1817 he entered as a student in the University at Edinburgh, where he subsequently graduated and commenced practice at Chichester. From thence he removed to Stratford-on-Avon, in 1823, and took editorial position on the "Cyclopædia of Practical Medicine," and the "British Foreign and Medical Review." In 1827, Dr. Connolly was appointed Professor of Practice of Medicine in London University, which position he filled until 1831, when he removed to WARWICK, near the Lunatic House, where he had for some years previously acted as visiting physician.

In 1830 he published his "Inquiry Concerning the Indications of Insanity," with suggestions for the better protection and care of the insane, which at once arrested attention.

In 1839 he was appointed resident physician to the then largest lunatic asylum in England, at HANWELL, succeeding SIR WILLIAM ELLIS at that institution. It is said that when he entered upon his duties in June, 1839, he found in the various wards about six hundred implements of restraint, half of which were handcuffs and leg locks, in an institution then containing only eight hundred inmates.

In his first report to the justices at the quarter sessions, he informed their worships, that since the 21st September preceding, not one patient had been placed under restraint. His report says : " No form of straight waistcoat, no handcuffs, no leg locks, nor any contrivance confining the trunk or limbs or any of the muscles is now in use. The coercion chairs, about forty in number, have been altogether removed from the wards."

It is undoubtedly true, that for ten years not one case came to Hanwell in which mechanical restraint was deemed necessary, although many suicidal patients were among them. "The great and only real substitute for restraint is invariable kindness" was the saying of Dr. Connolly, and lay at the bottom of his wonderful success.

During these years he contributed to the LANCET, and published in 1847 a work on "Construction and Government of Asylums." His annual reports were subsequently summarized and published.

After ten years he resigned as superintendent, and became visiting physician until 1852, when he retired, an

event which was commemorated by a public meeting at which the EARL OF SHAFTESBURY presented to him his own portrait by SIR WM. GORDON, and we quote from his reply a few lines:

“Those who know me well will believe me when I say that there never was an occasion when the sense of merit was less reflected from the breast of the recipient of a public honor than it is from me at this moment.”

He engaged in a large practice chiefly in mental cases, from which he was obliged to retire by continued ill health, and took up his residence at LAWN HOUSE, HANWELL, in sight of the scene of his labors. He died March 5, 1867.

His most valuable work is doubtless “The Treatment of the Insane without Mechanical Restraints,” published in 1856. His lectures on insanity at the College of Physicians and at the Royal Institution are able indeed, as were others of his publications, “Infantile Insanity” and a “Study of Hamlet” showing his literary ability.

The sketch accompanying this notice is from a steel engraving presented to the writer by his son-in-law, DR. HENRY MAUDSLEY, of London, who wrote the sketch of his life that appeared in the MEDICO-LEGAL JOURNAL some years since.

C. B.







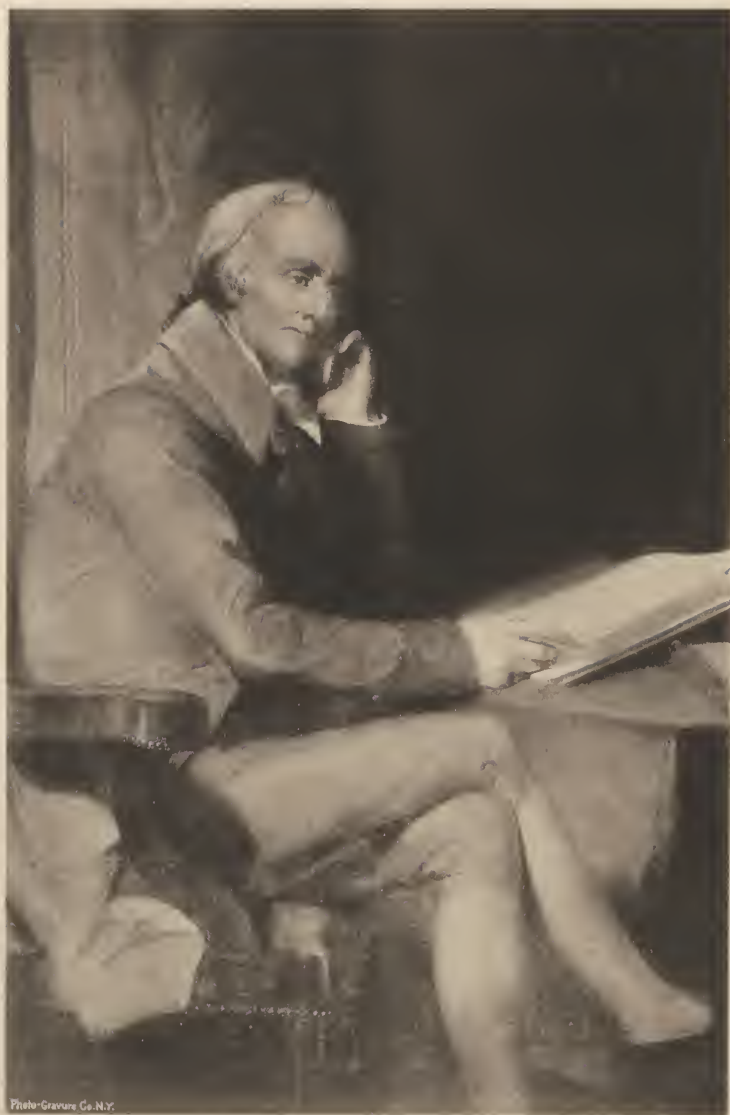


Photo-Gravure Co. N.Y.





### *BENJAMIN RUSH.*

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No medical man of the last or present century has ever attained in America the prominence conceded to Dr. Rush, nor more deservedly than this able and distinguished man. Born December 24, 1745, near Philadelphia, he was the contemporary of Washington (who was only 13 years his senior) and was the junior of the foremost men of the Revolution. He was only 30 years of age at the signing of the Declaration of American Independence, an act which identified him with the American Revolution, and with the era of the early history of this country. He was a member of the Constitutional Convention of 1787, presided over by Washington.

He served for the last fourteen years of his life as Treasurer of the United States Mint at Philadelphia. It was, however, in his character as a physician and his relation to Medical Jurisprudence, and as a writer, which gave him the greatest renown.

He was a graduate of the University of Edinburgh in 1768, and spent the succeeding year in the London and Paris Hospitals, returning in 1769 to Philadelphia, where he was appointed Professor of Chemistry in the College of Philadelphia in the same year.

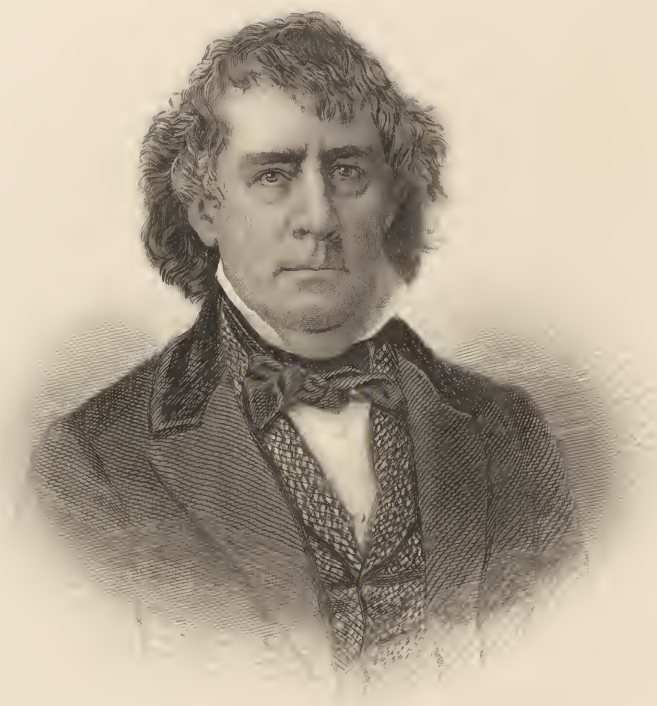
He was a writer of eminence, and distinguished ability on a great variety of subjects, which were collected and

published in a series of five volumes, between 1789 and 1804, entitled, "Medical Inquires and Observations," and he also published in 1806, his "Literary, Moral and Philosophical Essays."

In 1812, and shortly before his death, April 19, 1813, he published his most remarkable work, entitled, "Diseases of the Mind," which has placed his name in the front rank of American authors who have treated of insanity.

C. B.





*J. Ramey Beck*







*THEODRIE ROMEYN BECK, M.D., LL.D.*

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There is no name on the American continent to whom the science of medical jurisprudence is more indebted than that of Dr. T. Romeyn Beck. He, more than any other man of the previous generation, brought forensic medicine to the notice not only of the two professions of law and medicine, but to the general recognition of the country.

Beck's "Medical Jurisprudence," originally published in 1823, which has passed through many American, English and German editions, was universally acknowledged in its day to be a leading work on the science, and was as often found upon the shelves of the lawyer's library as that of the medical man.

Dr. Beck was born at Schenectady, August 11, 1791, and died November 19, 1855. He graduated from Union College, Schenectady, at the age of sixteen years, and took his degree at the New York College of Physicians and Surgeons in 1811. The degree of LL.D. was conferred upon him by the Mercersburg College, Pennsylvania, and by Rutgers College, New Jersey.

In 1815 he was appointed Lecturer on Medical Jurisprudence in the College of Physicians and Surgeons for the Western District, then established at Fairfield, N. Y., and in 1826 was made Professor of Medical Jurisprudence at that college, which chair he held until 1840.

When the New York State Lunatic Asylum at Utica was founded, he was named as one of the Board of Managers, which position he held until his death; and on the death of Mr. Munson, in 1854, was unanimously elected president of that board

He was a contributor to the *American Journal of Insanity* while Dr. Brigham was the editor, and on the death of that gentleman, in 1850, was chosen its editor, which position he filled until the year before his death.

We quote from his remarks on the proposed establishment of a university, made in the capitol at Albany, March 30, 1853, before the Legislature, the following:

“We require the appointment under public authority of a *Professorship of Medical Jurisprudence or Forensic Medicine*. It is not possible to do full justice to this subject in medical colleges. We teach there what is known; we want a person or persons who shall ascertain, if possible, the unknown; and great as have been the discoveries of late years in this science, still the cunning of the murderer has frequently outrun them.

“Why should not men duly qualified be appointed to such an office, who, by their researches, would be far in advance of those who by secret, and in some cases almost unknown means, prevent detection in the commission of crime?

“There is a person now living (Orfila), the certainty of whose knowledge on the power of poisons is such, that he is not only called to examine cases in every part of France, but not long since was summoned to Belgium

in one, which at the time attracted the attention of all Europe. I hold that there should be two or three persons of this character appointed and paid by the Government to perform this important duty."

It seems proper, when we are almost at the close of the generation which has passed since death terminated the labors of this early American student and teacher of forensic medicine, whose name has been so intimately associated with the growth and progress of medico-legal science in the last years of our century, that we should present his portrait to the readers of this volume devoted to a science of which he was so lustrous an exponent and ornament.

We are indebted to Professor Frank Hastings Hamilton, ex-President and Honorary Member of the Medico-Legal Society, for the leading facts as to the life and death of Dr. Beck, and to his surviving daughter, Mrs. Van Cortlandt, for the engraving which embellishes this volume.

C. B.









*R. SWAYNE TAYLOR, M. D.*





*DR. ALFRED SWAINE TAYLOR.*

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Dr. Alfred Swaine Taylor, was born in 1806, and qualified as a medical man in 1828, after studying at Guy's Hospital and in the principal medical schools of the continent of Europe. In 1831 or 1832 he was appointed Lecturer on Medical Jurisprudence at Guy's Hospital, an appointment which he held till his resignation in 1878. During this period of forty-six years, Swaine Taylor acquired a great reputation as a medical jurist, ranking with those of Caspar and Tardieu. He was connected with most of the great English medico-legal cases for a period of thirty-five years, and was a trusted adviser and chemical expert of the British Government.

Though not exclusively, it was chiefly as a toxicologist that Swaine Taylor acquired his great and justly merited reputation, and his name is indissolubly associated with the trial of Terwell for poisoning his mistress with prussic acid, and with that of Palmer for the murder of Cook by prussic acid. Taylor's "Principles and Practice of Medical Jurisprudence" is a standard British text-book among lawyers and medical men, and his work on "Poisons," though now somewhat out of date, is a valuable work of reference. For many years he edited the *Medical Gazette*, and was an accomplished and prolific writer. Whatever he undertook, Taylor

did well, and being all his life possessed of sufficient means, no pecuniary advantage ever led him to undertake what he had not sufficient time to carry out thoroughly.

In person Dr. Taylor was tall, erect, and imposing, with a singularly penetrating glance and handsome, dark eyes. His manner was most gracious to students, strangers, and friends; but he was a bitter and relentless foe to anyone who ventured to oppose him, especially in his own department of professional practice. As a witness, he was magnificent—cool, suave, positive, and not to be shaken on cross-examination or when opposed by other distinguished professional opinion. His hatred of lawyers found full vent in his text-books on medical jurisprudence. Those who knew him and saw how he was respected in private life, would scarcely suspect how keen and sarcastic he could be to foes.

T. S.

NOTE BY CLARK BELL, ESQ.

This sketch is from the pen of Dr. Thomas Stevenson, who succeeded Dr. Taylor, and occupied a similar relation to the English Government, and the portrait is from a photograph obtained by Dr. Stevenson from the surviving daughter of Dr. Taylor, now living in London.











### *ISAAC RAY.*

---

Dr. Ray was born at Beverly, Mass., January 16, 1806. He fitted for college at Phillip Academy, and entered Bowdoin College, Maine, but did not graduate, being obliged to quit study by his failing health. He graduated at the Harvard Medical School, in 1827, and commenced practice in Portland, Maine. In 1829, Dr. Ray removed to Eastport, Maine, where he soon began to take an interest in the subject of insanity, and commenced the studies for his great work, "The Medical Jurisprudence of Insanity."

In 1841, he was made Superintendent of the State Insane Asylum, at Augusta, Maine, and in 1846, was appointed Superintendent of the Butler Hospital for the Insane, at Providence, R. I., when he visited foreign countries, making observations for hospital construction, which enabled him to superintend the construction of that institution in 1847.

For twenty years he was in charge of this hospital, from which he resigned in 1867, removed to Philadelphia, where he resided until the time of his death, March 31, 1881.

He was named lecturer on insanity of the Jefferson Medical College of Philadelphia, and was a leading medical expert during the latter years of his life. The first

edition of his "Treatise on the Medical Jurisprudence of Insanity," was published in 1838, and it is no detraction to other writers to speak of it as unrivaled in that field of literature. He was a thorough student of the science of Forensic Medicine, and his work is enriched with all the wealth of the profoundest thinkers of his era, in all countries.

It is doubtful if any American writer on these subjects received higher praise, or more attention than did he especially upon the medical side, while his review of the legal questions involved, particularly in regard to the legal responsibility of the insane, is held in high estimation by jurists everywhere. In 1873, he published contributions to "Mental Pathology," and he was a constant contributor to the leading journals of his era, a list of which would be far too long for this sketch. He was an Honorary Member of the Medico-Legal Society, and his last appearance was when he read a paper before the Medico-Legal Society of New York, and was tendered a reception by that body. The portrait accompanying this sketch is taken from a photograph furnished by Dr. Curwen of Pennsylvania, which was the only one we have been able to find.











*GEORGE M. BEARD, M. D.*

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Dr. Beard was born May 8, 1889, at Montville, Conn., and died of pneumonia in the City of New York, on the 23d day of January, 1883. He graduated at Yale in 1862, and in 1866 from the College of Physicians and Surgeons of New York City.

He early became a member of the Medico-Legal Society of New York, taking from the outset an active interest in its labors. He attended the inaugural meeting in January, 1883, a short time before his death. He was one of the founders of the "National Association for the Protection of the Insane," and of the New York Society of Neurology and Electrology. He read a paper before the Medico-Legal Society, entitled "Legal Responsibility in Old Age, based on Researches into the Relation of Age to work," also one entitled "Problems of Insanity," another on "Hypnotism."

During the latter part of his life he gave his attention to medico-legal studies almost exclusively, contributing much that is valuable to forensic literature.

He was among the foremost alienists of our country, and his reputation was wider extended, especially abroad, than that of any of his contemporaries.

The work for which Dr. Beard was best fitted and most peculiarly adapted, and in which, had he lived, he

could have been most useful, was doubtless that of lunacy reform.

It is questionable if any of our American Alienists had studied the subject more deeply and thoroughly than had Dr. Beard. He had mastered the English system, both in its legal and practical aspects, and was thoroughly familiar with all the continental systems.

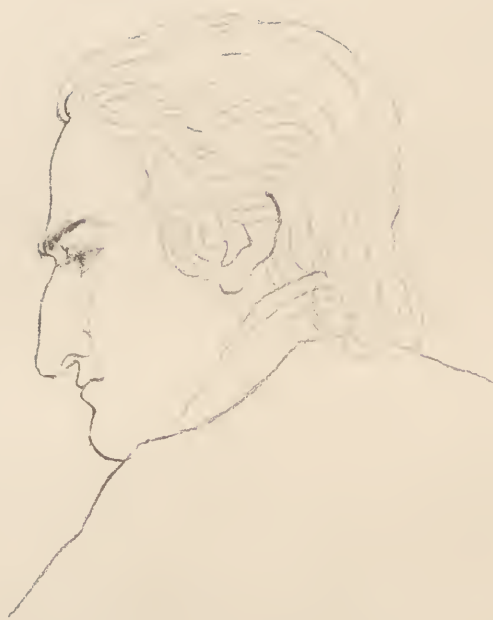
He recognized the changes needed at home in our laws and asylums, and his death was felt as a severe blow to that body of thoughtful minds who were then engaged in the consideration of the problems incident to this interesting question.

In no society, however, in this country, was his loss more keenly felt than in the Medico-Legal Society of New York, in the success of which he took the liveliest interest.

He was largely instrumental in inaugurating the *Medico Legal Journal*, to which he pledged the support of his influence and his pen—but his voice was hushed and his pen laid aside forever before the first number of that journal was published. Although cut off in the prime of his manhood he left, in his printed works, an enduring monument of his genius and his labors. *Sic itur ad astra.*

C. B.





PHOTOGRAVURE CO. N.Y.







## *WILLIAM TUKE.*

(1732-1822.)

When a man's name is famous and his memory is revered, more than a century and a half after his birth, there must be some good reason for it, and the desire is natural to see the features of one, who thus left his mark upon the age in which he lived. We are able to gratify this desire, by giving in this number an outline of the countenance of this remarkable man, and practical philanthropist. When in England we begged it of his great-grandson, Dr. Hack Tuke, of London, who informed us that it was taken when his ancestor was about sixty. In an obituary notice of him it is noted, that although he hardly reached the middle size, "he was erect, portly and of a firm step. He had a noble forehead, a majestic brow, the eye of an eagle, an arched nose, thin lips, a projecting chin and a commanding voice; his countenance and bust entirely of the Roman cast, while his mien was patriarchal and dignified." This description obviously applies to a much later period of life, than that at which the likeness which we are able to present to our readers was sketched.

Everyone familiar with the history of the reformation of the treatment of the insane in Britain, knows what it

### WILLIAM TUKE.

was, that made his name to be held in honor where he lived, and venerated after his death. He became aware of the cruel treatment to which insane persons were subjected ; he recoiled from the secrecy with which they were concealed from their relations and friends when once placed in an asylum ; he was altogether free from the notice that they were bewitched or possessed, and must therefore be regarded with wonder and horror ; his combined humanity and common-sense seemed to lead him directly to the possibility of caring for and teaching them with the consideration and kindness employed in other disorders. By little and little the accomplishment of these hopes was fulfilled. Nothing but an inflexible will, indomitable energy and pluck, could have brought about the success of his labors, and induce others to co-operate with him. This is the work which has made him deserving of the grateful remembrance of his countrymen, and not of them only but of many abroad who received their knowledge of a better system of managing the insane, from the examples set by the institution at York, founded by Tuke, in 1792, and called "The Retreat," in order to indicate its true character as a refuge for shattered and scattered brains from the distractions of life.

We who live at a period when the general methods of treatment of the insane are humane, can hardly realize the almost universally bad character of the treatment to which they were subjected at that period. For the most part, they were either neglected or were the victims

## WILLIAM TUKE.

of modes of medical treatment, which are now recognized to be extremely injurious.

The Retreat was established in the hope of ameliorating the condition of the insane, and was conducted on humane principles. Irons were never, on any pretence, employed, and the resort to personal restraint was only permitted in extreme cases. The law of kindness was kept prominently in view. The pervading influence of men not merely good, but animated by common-sense and enlightened views was soon felt. The object in view in the establishment of this institution was indeed realized to a greater extent than was expected of Tuke when he projected it. His life was extended to a great age—ninety—and he pursued this noble work till within a short period of his death in 1822. In the obituary notice from which we have already quoted occurs the following passage: “William Tuke has given honor to his family by his virtue, his talents and his public spirit, and left them a splendid name. . . . This great man is gone. He lived a long life, without a blot or stain, or even a reflection on his bright and fair career. His name and example will never die.”

Our space does not allow of a notice of those who co-operated with him in establishing and conducting the Retreat—Jepson, Fowler, Lindley Murray and others, the last mentioned being an American who took up his residence in York and became the celebrated grammarian. Tuke's son and grandson, Henry and Samuel Tuke, supported and continued the work, the latter in 1813

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dedicating to him a book on the results of treatment at the Retreat, which became famous and greatly extended the public acquaintance with the reformed system. Legislation followed, William Tuke himself having to give evidence before the House of Commons.

Although the Retreat was, in the first instance, established for the Society of Friends, and its management has been always vested in it, its repute gradually led to its extension beyond the limits of that body, and we understand that at the present time there are nearly as many non-members as members cured within its walls.

# THE MEDICAL JURISPRUDENCE OF INEBRIETY.

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BY CLARK BELL, ESQ., OF THE NEW YORK BAR.

*President of the Medico-Legal Society of New York.*

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In a discussion like that proposed before the Medico-Legal Society, in which the question is to be considered by such able medical men from the medical side or standpoint, it has seemed to me that it would be of interest to both professions, as well as to laymen, to have the inquiry made as to those relations which attach by law to inebriety, as well in the civil and domestic relations of the inebriate, as in regard to crimes committed by persons, while acting under the influence of intoxicants or while in a state of intoxication.

What, then, is the present legal status of the question?

I shall briefly state (but have neither opportunity nor space to discuss), what I believe to be the law upon the subject; citing and grouping authorities the civil side first, and the question of criminal responsibility second.

I.—CIVIL RELATIONS.—1. *Intoxication* was regarded by the common law, when complete and characterized by unconsciousness, as a species of insanity. Lord Coke's

4th manner of "*non compos mentis*" was, "4. By his own act as a drunkard."<sup>\*</sup>

*Delirium tremens*, which results directly from habits of intoxication, is in law considered to be a form of insanity, and this has been repeatedly held by the courts.<sup>†</sup>

It has always been a well-settled rule of law that no person can make a contract binding upon himself while he is wholly deprived of his reason by intoxication. This would be true as to deeds, wills, all instruments and obligations of every kind.<sup>‡</sup>

This rule is not changed where the intoxication was not procured by the other party to the contract, but is voluntary on the part of the drunkard.<sup>§</sup>

By the common law, as well as by the New York Statute, a testator must, at the time of the execution of a will, be of "*sound mind and memory*," and it is as requisite to have the presence of a "*disposing memory*," as a "*sound mind*." ||

(b.) By common law and by statute law an intoxicated person is thereby rendered incompetent as a witness.

\* Coke Litt., 248, a; Beverly Case, 3 Hayw., 78; Buswell on Insanity, Coke. 124; Buswell on Insanity, § 393.

† Macconchey v. The State, 5 Ohio St. 77; Carter v. The State, 12 Tex. App., 500; Buswell on Insanity, § 153; Erwin v. State, 10 Tex., 700.

‡ Prentice v. Achorn, 2 Paige 30; Pitt v. Smith, 3 Camp., 33; Cole v. Robbins, Bul. P., 172; Morris v. Clay, 8 Jones (N. C.) 216; King v. Bryant, 2 Hayw., 394; White v. Cox,

§ Wigglesworth v. Steers, 1 Hen. & Man., 70; Barrett v. Buxton, 2 Aiken 167.

|| N. Y. Rev. Stat., art. 2, chap. 6; Parr 2, § 20, 5th ed.; Forman's Will, 54 Barb., 274; Van Guysling v. Van Kuren, 35 N. Y., 70; Aiken v. Weekerly, 19 Mich., 482; Lowder v. Lowder, 58 Ind., 538; Converse v. Converse, 21 Vt., 168.

The statute law usually classifies such intoxicated persons as lunatics, and the provisions frequently apply similarly to each, and to both.\*

(c) In the marriage contract, which in some cases is treated on different grounds from all other contracts, from the necessity of the case, and consequences upon consummation, the sound general rule has been : that if the party was so far intoxicated as not to understand the nature and consequences of the act, this would invalidate the contract.†

2. The analogy between lunacy and total intoxication, or even habitual drunkenness, is doubtless most marked in the statutes of the various states regarding the care and custody of the person and estates of lunatics, idiots and habitual drunkards.

(a.) By English law the Lord Chancellor, as the direct representative of the Crown, has always exercised the right of assuming the custody and control of the persons and estates, of all those who, by reason of imbecility or want of understanding, are incapable of taking care of themselves.

Writs *de lunatico inquirendo* were issued in cases to inquire whether the party was incapable of conducting his affairs on account of habitual drunkenness.

The Supreme Court of every American State would doubtless have the right which the Court of Chancery exercised under the law of England in the absence of

\*N. Y. Rev. Statutes ; Genl. Stat. Minn., 1878, c. 73, § 9, subd. 1 ; Connolly v. Lynch, 27 Minn., 435. † Johnston v. Browne, Ferg. Const. Law Rep., 229.



any statute law. This must be so in the nature of things in American States; the principle has been exercised and adjudicated on in Kentucky, in Maryland, Illinois, Indiana and North Carolina.\*

The Legislatures of the various States have vested this power by statutory enactments in various tribunals, for example in New York, by the old law in the chancellor; in New Jersey in the Orphans' Court; in South Carolina equally to the law and equity side of the courts, and now in New York, where the distinction between law and equity has been abolished, in the Supreme Court, which exercises it.

It will be observed that in many of the American States the habitual drunkard even, is classified and treated under the same provisions, and in the same manner as the lunatic and the idiot, notably in Pennsylvania, New Jersey, Maryland, Illinois, New York and many other States.

Taking New York as a fair illustration of the principle, it has been held by the courts, that all contracts made by habitual drunkards who have been so adjudged in proceedings *de lunatico inquirendo* are actually void.† And that the disability of the habitual drunkard continues after the committee has been appointed even when he is perfectly sober and fully aware of the nature and consequences of his acts.‡

\* *Nailor v. Nailor*, 4 Dana, 339; *Wiswall*, 2 Ired. Eq., 294,  
*Colton in re*, 3 Md. Ch., 446; *Corrie's Case*, 2 Bland's Ch., 448; *Tomlinson v. Devore*, 1 Gill., 345; *Dodge v. Cole*, 97 Ill., 388; *McCord v. Ochiltree*, 8 Blackf., 151; *Lathan v.*  
 † *L. Amoureux v. Crosby*, 2 Paige, 422.  
 ‡ *Wadsworth v. Sharpsteen*, 8 N. Y., 388.

It has also been held that *habitual drunkenness*, being established, it is *prima facie* evidence of the subject's incapacity to manage his affairs.\*

We may then assume, in considering the medical jurisprudence of inebriety, that the law has always regarded and treated intoxication as a species of mental derangement, and has considered, and treated the habitual or other drunkard, as entitled to the special care and protection of Courts of Equity in all matters relating to his civil rights, his domestic concerns, his ability to make contracts, his intermarrying, and disposing of his property, by deed, gift or device.

The law has gone farther, for it has thrown around him, its protecting arm and shield, when it is satisfied, that he has become so addicted to drink, as to seriously interfere with the care of his estate, and the courts have then come in and taken absolute control, of both person and estate of drunkards, in their own interest and for their presumed good.

Medical men should keep in mind the distinction running all through the law between insanity and irresponsibility. The medical view, that irresponsibility should follow where insanity exists, has nowhere been conceded by the law, and this distinction must be borne in mind in the subject here under consideration.

II.—CRIMINAL RELATIONS.—This brings us to the second question: The relation of the inebriate to the criminal law for illegal acts, committed while intoxi-

\*Tracy in re, 1 Paige, 580 ; 1 Rev. St. (2d ed.) Ch. 5, tit. 2, § 1.

cated, which seems more harsh, in its practical effect, than the principles which govern him in his civil and social relations, to society and the State.

This seeming hardship, however, is due to the capacity of the drunkard, considered objectively, for wrong-doing. In the one case his position as a civil agent is that of a unit of society merely—one who is, as it were, to be “saved from himself”; in the other case, the criminal aspect of the drunkard, it is the weal of society which is to be conserved and protected.

1. That form of intoxication which results in the total or partial suspension of or interference with, the normal exercise of brain function, is regarded at law as mental unsoundness and sometimes amounts to a species of insanity. It has been held at law, to be a voluntary madness, caused by the wilful act of the drunkard, and the decisions have been uniform that where reason has been thus suspended, by the voluntary intoxication of a person otherwise sane, that this condition does not relieve him from the consequences of his criminal acts, or, more carefully stating it, from acts committed by him in violation of law, while in that state.\*

(a.) There are decisions which go to the length of holding, that the law will not consider the degree of intoxi-

\* *Kenney v. People*, 31 N. Y., 330; 27 How., 202; 18 Abbott, 91  
*Loneragan v. People*, 6 Park., 209;  
 50 Barb., 266; *Freery v. People*, 54  
 Id., 319; *People v. Porter*, 2 Park.,  
 214; *People v. Fuller*, Id., 16; *People*  
*v. Wildey*, Id., 19; *Dammaer's*  
*Case*, 15 St. Pr., 522; *Frost's Case*,  
 22 St. Tr., 472; *State v. Toohey*, 2  
 Rice Dig. (S. C.) 105; *People v.*  
*Rogers*, 18 N. Y., 9; *State v.*  
*Thompson*, Wright, 617 (Ohio);  
*Swan v. The State*, 4 Humphry.,  
 136; *Com. v. Hawkins*, 3 Gray, 463  
 Mass.); *Cluch v. Stats*, 40 Ind., 264;  
*State v. Thompson*, 12 Nev., 140

cation, whether partial, excessive or complete, and even that if the party was unconscious at the time the act was committed, such condition would not excuse his act ; and, in some cases, judges have gone so far, as to instruct juries that intoxication is actually an aggravation, of the unlawful act rather than an excuse.

But the better rule of law now undoubtedly is, that if the person at the moment of the commission of the act, was unconscious, and incapable of reflection or memory, from intoxication, he could not be convicted.

There must be motive and intention, to constitute crime, and in such a case the accused would be incapable from intoxication of acting from motive.†

(b.) The reasons upon which the rule of law rests may, with great propriety, be considered, and should be carefully studied, before any attempt at criticism is made.

1. The law assumes that he who, while sane, puts himself voluntarily into a condition, in which he knows he cannot control his actions, must take the consequences of his acts, and that his intentions may be inferred.‡

2. That he who thus voluntarily places himself in such a position, and is sufficiently sane to conceive the

\**People v. O'Connell*, 62 How. Pr., 436; *People v. Robinson* 1 Parker Cr. Rep., 649; *Rex v. Carroll*, 7 C & P., 145; *Dammaer's Case*, *supra*; *Frost's case*, *supra*; *State v. Thompson*, *supra*; *United States v. Forbes, Crabbe*, 558; Blk. Com., 26; 1 Coke, 247.

†*Buswell on Insanity*, § 446, note 6; *People v. Rogers*, 18 N. Y., 9, Denio; *Cluck v. State*, 40 Ind, 264; *Kenney v. People*, 31 N. Y., 330.

‡ *People v. Garbutt*, 17 Mich., 9; *Commonwealth v. Hawkins*, 5 Gray, 463.

perpetration of the crime, must be assumed to have contemplated its perpetration.\*

3. That as malice in most cases must be shown or established to complete the evidence of crime, it may be inferred, from the nature of the act, how done, the provocation or its absence, and all the circumstances of the case.†

In cases when the law recognizes different degrees of a given crime, and provides that wilful and deliberate intention, malice and premeditation must be actually proved to convict in the first degree, it is a proper subject of inquiry whether the accused was in a condition of mind to be capable of premeditation.‡

Sometimes it becomes necessary to inquire, whether the act was done in heat of passion, or after mature premeditation and deliberation, in which the actual condition of the accused and all the circumstances attending his intoxication, would be important as bearing upon the question of previous intent and malice.§

(c.) The New York Penal Code lays down with precision the provision of law governing the question of responsibility in that State as follows :

§ 22. *Intoxicated persons*.—No act committed by a

\* *People v. Robinson*, 2 Parker cr., 235,

† *Buswell on Insanity*, § 450; *Buswell v. Commonwealth*, 20 Grat.

‡ *Buswell on Insanity*, § 450; *Hopt v. People*, 104 U. S.; *Penn v. McFall*, Addison, 255; *Keenan v. Com.*, 44 Penn. St., 55; *State v.*

*Johnson*, 44 Conn., 136; *Harte v. State*, 11 Humph., 154, and cases cited in note to *Buswell on Insanity*, § 450.

§ *Kelly v. Commonwealth*, 1 Grant (Pa.) 481; *Platte v. The State*, 9 Hump., 663.

person, while in a state of intoxication, shall be deemed less criminal by reason of his having been in such condition. But whenever the actual existence of any particular purpose, motive or intent is a necessary element to constitute a particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive or intent with which he committed the act.

(d.) Voluntary intoxication, though amounting to a frenzy, has been held not to be a defense when a homicide was committed without provocation.\*

(e.) *Delirium tremens*, however, a condition which is the result of drink, and is remotely due to the voluntary act of the drunkard, has been held to be a defense to acts committed while in the frenzy, similar to the defense of insanity.†

(f.) It has been held that when inebriety develops into a fixed and well-defined mental disease, this relieves from

\**People v. Rogers*, 18 N. Y., 9 reversing 3 Pack., 632; *Kenny v. People v.* 31 N. Y., 330; *People v. Robinson*, 1 Pack., 649; 2 Id., 235; *People v. Hammil*, id., 223; *People v. Batting*, 49 How., 392; *People v. Eastwood*, 3 Park., 25; 14 N. Y., 562; *State v. Harlow*, 21 Mo., 446; *Shattahan v. Conn.*, 8 Bush, 463; *Rafferty v. People*, 66 Ill., 118; *Charci*

*v. State*, 31 Ga., 424; *Humphreys v. State*, 45 Id., 190.

*Real v. People*, 55 Barbour, 551; 42 New York, 270; *Willis v. Com.*, (Va.), 22; *Albany Law Journal*, 176; *Maconhey v. State*, 5 Ohio, (77; *Carter v. State*, 12 Tex. Ap., 500; *Buswell on Insanity*, § 158; *Erwin v. State*, 10 Tex., 700.



responsibility in criminal cases, and such cases will be regarded and treated as cases of insanity.\*

(g.) It may now be regarded as a settled rule that evidence of intoxication is always admissible, to explain the conduct and intent of the accused, in cases of homicide.†

(h.) In crimes less than homicides, and especially where the intent is not a necessary element to constitute a degree or phase of the crime, this rule does not apply.

The practical result, however, in such cases, and in those States where the latter provision of the New York Penal Code has not been adopted, is to leave this whole subject, to the judges, who fix the details of punishment. This is a great public wrong, because each judge acts on his own idea, and one is merciful and another harsh. If it is placed by law in the breast of the judges, it should be well-defined and regulated by statute. Lord MacKenzie well says : “The *discretion* of a judge is the law of tyrants.”

3d. It will be observed that the law has not yet judicially recognized inebriety as a disease, except in the cases of delirium tremens—above cited—and hardly even in that case.

It is for publicists, judges and law-makers to consider the claim now made, that science has demonstrated inebriety, to be a disease.

\*Lonergan v. People, 6 Park., 209; 50 Barb., 266; O'Brien v. People, 48 Barb., 274; People v. Williams, 43 Cal., 344; U. S. v. Drew, 5 Mason, 28; State v. McGonnigal, 5 Harling., 510.

†Lonergan v. People, 6 Park., 209; 50 Barb., 266; People v. Hammil, 2 Park., 223; People v. Rogers, 18 N. Y., 9.



If this is conceded, what changes are needed to modify the law, as it at present stands, so as to fully preserve the rights of society, in its relation to the unlawful acts of inebriates, with a proper and just sense of the rights of the inebriate himself ?

This contribution is made from the legal standpoint purely, and is designed merely to open this interesting discussion for both professions, to which such names as Dr. Norman Kerr, Dr. T. D. Crothers, Dr. Joseph Parrish, Dr. Charles H. Hughes, Dr. T. L. Wright and others will contribute the medical view, a discussion which I hope may arrest the thoughtful attention of the students of the subject throughout the world.















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